Women and occupational pensions 1870-1983 : an exploratory study.

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WOMEN AND OCCUPATIONAL PENSIONS 1870-1983:

AN EXPLORATORY STUDY

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ABSTRACT

Women and Occupational Pensions 1870-1983: An Exploratory Study

This study, derived from secondary sources, is concerned with female access to occupational pension scheme provision, with particular reference to retirement benefits and is written as a contribution to knowledge on the position of women with regard to this form of occupational welfare provision.

The thesis seeks, especially, to account for the under-representation of women in and their differential access to the benefits of membership of employers' pension schemes designed, primarily, to provide an eventual replacement income for earnings foregone in old age. It also seeks to throw light on poverty among elderly non-married women in relation to the part played in constructing such poverty by limited access to occupational pension benefits, including provision for 'survivors'.

An introductory section locates the topic area within the literature of social policy and administration in relation both to the 'social division of welfare' and to women and welfare. The second part traces the development of occupational pension provision during the nineteenth century and discusses the entry of women into 'white-collar' employment and into membership of employers' pension schemes. A third section focusses on female membership of occupational pension schemes 1939-83, including the post-war expansion of scheme provision and the 'pensions debate' culminating in the Social Security Pensions Act 1975. The fourth section focusses specifically on issues of equal treatment for men and women in membership of occupational pension schemes, covering equal access, sex discrimination and equal status. It addresses two issues in detail - survivors' pensions and benefits deriving from female membership of schemes and the differential 'normal'

retirement ages typically applied to males and females. It also discusses women's paid employment in the context of 'equal treatment'. The penultimate section addresses the provision of occupational benefits for widows and female survivors, including loss of potential entitlement to widows' benefits, on divorce.

The conclusion focusses on gender divisions in occupational pension provision and some implications for social policy and the financial circumstances of elderly women.

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ABBREVIATIONS

ASTMS	Association of Scientific, Technical and Managerial Staffs
CSO	Central Statistical Office
COS	Charity Organisation Society
CPAG	Child Poverty Action Group
CDP	Community Development Project
DES	Department of Education and Science
D of E	Department of Employment
DHSS	Department of Health and Social Security
EOC	Equal Opportunities Commission
EPA 1970	Equal Pay Act 1970
EEC	European Economic Community
FES	Family Expenditure Survey
FSSU	Federated Superannuation Scheme for Universities
GHS	General Household Survey
GAD	Government Actuary's Department
GB	Great Britain
GMP	Guaranteed Minimum Pension
HMI	Her Majesty's Inspector
HMSO	Her Majesty's Stationery Office
H of C	House of Commons
H of L	House of Lords
ILO	International Labour Organisation
LFS	Labour Force Survey
LC	Law Commission
MPNI	Ministry of Pensions and National Insurance
NALGO	National Association of Local Government Officers

NAPF	National Association of Pension Funds
NCCL	National Council for Civil Liberties
NI	National Insurance
NSPA	National Spinsters' Pensions Association
NUT	National Union of Teachers
OPB	Occupational Pensions Board
OPCS	Office of Population Censuses and Surveys
RCDIW	Royal Commission on the Distribution of Income and Wealth
RIPA	Royal Institute of Public Administration
SDA 1975	Sex Discrimination Act 1975
SSRC	Social Science Research Council
SSPA 1975	Social Security Pensions Act 1975
SPCK	Society for the Promotion of Christian Knowledge
SERPS	State Earnings Related Pensions Scheme
SBC	Supplementary Benefits Commission
TUC	Trades Union Congress
UK	United Kingdom
USS	Universities Superannuation Scheme

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Part I

Women and the Social Division of Welfare: the Case of Occupational Pensions

'Now my family urged upon me the Civil Service because there had been a family member who was very successful in the Civil Service and they kept saying "You'll get a pension." At 21, who cares ?!'

(Woman social worker trained in the 1930s) (1)

Part I

Introduction

Women and the Social Division of Welfare: the Case of Occupational Pensions

This thesis is concerned with female access to occupational pension scheme provision, with particular reference to retirement benefits, and is written as a contribution to knowledge on the position of women within this sector of occupational welfare provision. Occupational welfare has been a comparatively neglected area of academic research within social policy and administration, though in recent years there has been a renewal of interest in the wake of public and political discussion on pension provision. Also in recent years there has appeared a growing literature on female access to welfare provision and, in the wake of a re-emergent women's movement, a feminist critique of social policy. However, until lately, sparse attention has been given to issues surrounding female access to retirement pension provision. Hence, what follows is an exploratory study.

This seeks to account for the long-standing under-representation of women in, and differential access to the benefits of, membership of employers' pension schemes designed to provide an eventual replacement income for earnings foregone in old age. It also seeks to help explain poverty among elderly non-married women not only in terms of their typically limited access to occupational retirement benefits earned in their own right, but also in relation to their potential entitlement, if any, to occupational widows' and other survivors' benefits which generate income for elderly women.

The aim of this necessarily brief introduction is to discuss occupational welfare provision in the context of Titmuss' concept of a 'social division of welfare'. There follows a short review of some relevant academic work on women and welfare with, finally, some comments on the major areas of exploration contained within this thesis and on the research methodology.

'The social division of welfare'

Richard Titmuss in 1956 first drew attention to what was, effectively, social welfare provision which had grown up outside the statutory sector. (2) He defined three major categories of welfare - social, fiscal and occupational as sharing similar objectives in their responses to 'states of dependency' (Titmuss, 1963d, pp.41-44). Titmuss argued that all such dependencies could to some degree involve 'the destruction, curtailment, interruption or frustration of earning power' and, furthermore, could incorporate 'secondary dependencies' in relation to wives, children and other relatives (ibid., p.43). Extreme old age was characterised as a 'natural' state of dependency and compulsory retirement from paid work as a 'man-made' (sic) dependency (ibid.,pp. 43-44).

Titmuss argued that increased recognition and awareness of the causes of such states of dependency had influenced the growth not only of 'social' welfare provision, but also of 'fiscal' and 'occupational' welfare. He noted the extent to which, since 1907, the fiscal (tax) system had facilitated family income support via tax relief given in recognition of dependencies. Such relief had, originally, been directed solely towards the lowest paid taxpayers (ibid.,p.45). In addition, there had occurred 'a great expansion in occupational welfare

benefits in cash and kind', that is 'fringe benefits' derived fr participation in paid employment, again partly in 'recognition of dependencies' (ibid., pp.50-51). (3)

The essay, subtitled 'Some Reflections on the Search for Equi constituted a counter-argument to those critics of the welfare stat who maintained that the rapid post-war expansion of state welfare provision had benefitted the working class to the detriment of the middle and upper classes. Titmuss held that, to the contrary, the latter groups had themselves profited greatly from the growth of fisc and occupational welfare provision and received forms of welfare not accessible to those lower down the income and occupational scales. He showed how occupational or 'fringe' benefits linked in with concessions provided by the fiscal system so as to function as 'concealed multipliers of occupational success' favouring wealthier taxpayers (ibid., pp.51-52).

'Occupational social services' argued Titmuss, though provided by 'good' employers and expressive in many cases of a desire for 'good human relations' in industry were, none the less, divisive. Their existence raised a 'fundamental question of equity' ('analogous to that raised, by the dual roles of fiscal policy') that is 'whether and to what extent social service dependency benefits should be proportionately related to occupational achievement.' (Ibid., pp52-53)

In a section headed 'Welfare for the Better Off' in a later (1959) essay, Titmuss returned to this theme, arguing that during the 1950s occupational benefits were among those which had 'nearly all been concentrated on the better-off third of the population, particularly with regard to pensions, tax-free lump sums ...' (Titmuss, 1936b, pp.229-30). The debate over the 1959 National Insurance Act (see Ch.3

below) had brought the issue of occupational pensions into the public arena. Commenting on the 'contracting-out' option, Titmuss stated that 'More fringe welfare for the better-off will then provide the argument that Britain should lead the world in abolishing a state system of social security' (ibid., pp.230-231). From quite another perspective, Rubner (1962, Ch.VII) likened the provision of such benefits to the old 'truck' system and argued for their abolition in a polemical study which elaborated on the shortcomings of occupational 'death and retirement' benefits.

Titmuss subsequently conceptualised British fiscal and occupational welfare as 'the indirect or submerged parts of the Iceberg of Social Policy' which had expanded notably over two post-war decades (Titmuss, 1976, p.192). Returning to his theme of inequitable redistribution, he noted that occupational welfare benefits incorporating 'social security provisions in cash or kind' were linked to 'employment status, achievement and record'. Such benefits were 'legally approved' by governments which viewed them as 'alternatives to extensions in social welfare'. While they favoured, predominantly, 'white-collar and middle-class occupations' their cost fell 'in large measure on the whole population'. (Ibid., pp.192-93)

Arguing that all three sectors of welfare 'function redistributively', Titmuss cited occupational pension provision as redistributing claims on resources from lower to higher paid employees. Furthermore 'the cost to the Treasury (the whole community) of private pension schemes substantially exceeds the Treasury contribution to social security payments for the whole population. The pensions of the rich are more heavily subsidised than the pensions of the poor.' (Ibid.,

pp.193-194). Yet there was no public appreciation of the relationship between social, fiscal and occupational welfare.

One attempt to promote such appreciation was a study of fringe benefits (Reid and Robertson, eds., 1965) which devoted a chapter to occupational pension schemes in the context of the development of state pension provision (Wiseman, 1965). At the same time Rhodes produced his major if under-rated[4] study of public sector occupational pensions - a landmark in the analysis of occupational pension provision. Townsend's important study of poverty undertaken in 1969 gave considerable attention to 'occupational deprivation' and dealt with welfare and fringe benefits (Townsend, 1979, Ch.12, see pp.455-61).

During the mid-seventies, several scholars returned to the social division of welfare, including Pinker, who noted a significant increase in real expenditure on public social services and 'an even more remarkable growth in the importance of fiscal welfare provision, which has in turn given added stimulus to the growth of occupational welfare.' (Pinker, 1974, p.3) The divisions of welfare identified by Titmuss had 'become more marked', a trend which appeared likely to continue (ibid.). Pinker went on to discuss the 'work ethic' and the linkage of entitlement to social welfare benefits, especially in the field of income maintenance, to the status of being, or having been, in paid employment (ibid., pp.3-8). In particular, he showed how the 1971 Conservative pension plan created an integral relationship between benefits and employment status (ibid., pp.9-11).

This paper is notable for the connection made between the social class dimensions of the 'social division of welfare', which Titmuss had emphasised, and complementary forms of sex discrimination, which he had not, though as will be seen, he was not unaware of this dimension.

Arguing that sex discrimination had always been 'a key feature of social security', Pinker noted the assumptions about female financial dependence in marriage implicit in the Beveridge Report (1942) - assumptions which 'helped to sustain a complex network of positive and negative discriminations.' (Ibid., p.11) Commenting on earnings-related social insurance/occupational benefits, in the context of the Conservative White Paper on pensions (DHSS, 1971), Pinker argued that such graduated provision could 'only leave unchanged the basic sex inequalities in pay prospects and work status which originate in the economic market and the educational system.' (Ibid., p.12)

Sinfield (1978) appraised the analytic potential still residing in Titmuss' concept of the social division of welfare, arguing for more systematic exploration of the link between the social division of welfare and stratification theory, including the relationship between the social division of welfare and the division of labour. Sinfield held that the interaction between various 'welfare systems' had become much greater in the mid-seventies (ibid.,p.140). He argued that 'a careful analysis of resources, security, status and power through the social division of welfare would help us to understand more thoroughly the operation of these mechanisms and systems of distribution and redistribution that generate and maintain social, political and economic equality.' (Ibid.,p.132) However, there is no suggestion from Sinfield that a study of gender divisions might prove rewarding in this context, though his discussion is, in point of fact, highly relevant to issues of gender.

It is Reddin who within the field of social policy has developed a sustained critique of occupational welfare and of both public and occupational welfare provision, with an awareness of gender issues.

Reddin (1977) discussed the SSPA 1975 and the relationship between contributory and occupational pension provision and later (1980) the relationship between pension provision and tax. His paper on 'Occupation, welfare and social division' (1982) examined occupational welfare in general while, in a further paper (1983) Reddin returned to his critique of state and occupational pensions. In addition, Field (1981, Ch.8) has written on 'The Company Welfare State', drawing attention to the findings of the Royal Commission on the Distribution of Income and Wealth (1976, Ch.4; 1979, Ch.9) on 'fringe benefits' and occupational pensions.

Women and the social division of welfare

Titmuss directed his original analysis of the social division of welfare towards an exposure of differential access, as between income groups, occupational groups and social classes, to the benefits conferred via fiscal and occupational welfare. In 'The Social Division of Welfare' no mention is made of gender inequalities, though as Rose (1981, p.481) points out, Titmuss had developed 'an unusual sensitivity to the position of women'.

His 1952 Fawcett lecture on the position of women, while mainly directed towards issues of marriage and motherhood, also addressed female longevity. It briefly identified 'The problem of social policies for old age' as 'mainly a problem of elderly women - a fact that is generally overlooked by those who consider that private occupational pension schemes for men will answer all the questions of income maintenance in old age.' (Titmuss, 1963b, p.98) Titmuss noted a possible challenge to social policies arising from a new phenomenon, the 'married woman returner'. A new generation of women were reaching their forties as their own children reached adult life, only to find themselves

shut out from 'practically all forms of educational and vocational training, along with entry to many pensionable occupations ...' (ibid, p.102)which, for women, would have been public service occupations or the better type of 'office' or 'manual' occupations.

The critical link between gender and the social division of welfare has been established by Rose (1981, p.478) who argued that Titmuss' particular mode of analysis of social policy lends itself to an examination of gender issues. Thus, his concept of a 'social division of welfare' is potentially 'open for the examination of the contradictions of race, age and sex as structured by social policy' and 'offers a tradition of empirical enquiry which refuses the automatic reduction of all oppression to that of class. Not least it facilitates the development of analysis of the sexual division of welfare.' (Ibid., p.479)

Rose commented on the neglect of occupational welfare as a subject of study by members of the Titmuss 'school' during the 'golden age' of academic social administration in the 1950s and 60s, linking this neglect of 'an increasingly important sector' to a parallel failure to address issues of gender in relation to welfare (ibid., pp. 492-93). She maintained that where the triple division of welfare has been studied, as in Townsend's work on poverty (1979), 'credence' is given to Sinfield's (1978) belief in the analytic potential of the social division of welfare (ibid., p.493). The work of Reddin may be cited once more in this connection.

Pascall (1983) offers a comprehensive account of the emergence of a feminist analysis of social policy, noting the extent to which the mainstream literature of social policy has, up to the time of writing, failed to address gender divisions in social welfare (ibid., pp. 83-84). Pascall suggests that the unifying theme of this feminist critique has been comment on 'the "patriarchal" family in modern

society and an analysis of the Welfare State in supporting relationships of dependency in that family.' (Ibid., p.84)

From the early 1970s, Land[5] has sustained an on-going critique of the treatment of women within the tax and income maintenance systems, emphasising the part played by the domestic division of labour in constructing both women's financial dependence within marriage and their role as unpaid 'carers' (Land 1971, 1976, 1977, 1978, 1979 (a) and (b), 1980, 1981, 1983). Wilson (1977, 1983) has dealt substantially with issues of women and state welfare, as have McIntosh (1978, 1979, 1981) and Bennett (1983). Feminist writing on social policy has also drawn on critiques of the family such as Barrett (1980) and Barrett and McIntosh (1981) and on work done from the vantage point of political economy such as Peattie and Rein (1983).

However, little specific attention has been given to women's access to retirement benefits or their financial circumstances in old age. The social issues addressed by the re-emergent women's movement have mainly reflected the interests and concerns of younger women (Finch and Groves, 1982, p.427; Phillipson, 1982, pp. 61-63). Land (1976, pp. 124-26) has discussed pensions in the context of female financial dependence and the social security system, while Phillipson (1982) devoted one chapter of his study of issues of old age to 'women in retirement and old age', with a parallel chapter on men. Groves (1983) presented a discussion of women and retirement pensions legislation, focussing mainly on women and state pension provision, derived from research for this thesis on women and occupational pension provision.

Women and occupation pensions 1870-1983

This research has been undertaken on a part-time basis and was originally conceived as an M.Phil thesis which, for domestic reasons, could only be contemplated as a library research project using secondary

sources. The major resource available on commencing this study was the then recent report of the Occupational Pensions Board (1976) on Equal Status for Men and Women in Occupational Pension Schemes.

The available statistical information on female access to occupational pension provision has derived from the periodic surveys of the Government Actuary's Department and annual surveys of the National Association of Pension Funds.[6] At a late stage, useful statistics on access have become available from the long-awaited survey of women's employment (Martin and Roberts 1984). Unfortunately the Equal Opportunities Commission's report on Equal Treatment in Occupational Pension Schemes appeared too late for inclusion in the main text, but is referred to briefly in Part VI, below.[7]

It became apparent at an early stage that it would be necessary to examine a wide range of secondary source material from diverse disciplines and origins. The research has illustrated the contribution which allied social science disciplines can make to the study of social policy. In the event, material has been used from the literature of social history, economics, sociology and law, from the general area of 'women's studies' and from the technical publications of the 'pensions industry' and insurance world.

This thesis traces the history of occupational retirement pension provision and female access to such provision from 1870 when women first joined the Post Office to 1983, just as the government was setting up its Inquiry into Provision for Retirement (1984). It focusses not only on women as employees but also as potential recipients of 'dependency' benefits deriving from occupational pension schemes. The aim throughout has been to concentrate on employers' pension provision in terms of 'superannuation' benefits designed to replace income in old age and including reference to 'death in service' benefits. It is in this context only that survivors' benefits and 'early retirement' issues are discussed. Dicussion of statutory pension provision has

been included only to the extent necessary for proper understanding of occupational pension provision. The thesis omits detailed reference to the place of occupational pension provision in British capitalism nor does it address feminist theory, though reference to source material on these topics appears in the text.

Until recently women have been all but invisible in the literature of occupational pensions. A flurry of interest at the time of the 'pensions debate' (1969-75) died down, but the subsequent involvement of the European Community with issues of sex discrimination in occupational pension provision has once more made female access to employers' pension benefits a live issue, as, to an extent, have recent changes in the divorce law. It is hoped that this research will contribute further to the debate.

Part I References : Introduction Women and the Sexual Division of Welfare

1. Subject interviewed by Alan Cohen (University of Lancaster) for an oral history of social work.

2. For commentaries on the work of Titmuss and his treatment of the social division of welfare see Wilding (1976 esp. pp. 159-62); Pinker in Reisman (1977); Reisman (1977 esp. pp. 87-90); Sinfield (1978); Rose (1981); Pascall (1983 esp. pp. 89-92); Spicker (1984).

3. For a critique of Titmuss' concepts of fiscal and occupational welfare see Spicker (1984).

4. For commentary on Titmuss in the context of the feminist critique of social policy see Rose (1981) and Pascall (1983, pp. 89-92). A further useful perspective can be gained via his daughter's autobiography (Oakley, 1983).

5. Land, Rose and Reddin were junior academics at LSE with Titmuss in the 1960s. Abel-Smith, an established member, has recently written on issues of sex equality in social security provision (1983).

6. These surveys (GAD, 1958, 1966, 1968, 1972, 1978, 1981) have appeared sporadically and are not strictly comparable. The NAPF survey covers only member schemes : small schemes are thus under-represented.

7. The EOC funded a random survey of 100 NAPF pension schemes (1983) and also studied the 50 largest NAPF schemes, by market value. Information was obtained on membership, scheme rules and entitlements so as to identify policy and practice regarding the differential treatment of men and women. Case studies were made of thirty schemes and interviews held with administrators of pension schemes and with trade union officials. There was a quantitative study using SPSS analysis techniques (McGoldrick, 1984) and is an excellent complement to this research.

PART II

The Entry of Women into Occupational Pension Scheme Membership to 1939

'Her idea was for I to get a job to get a girl a pension because she had no money except what her husband would give her and she wanted a girl to have a pension - which I eventually did get.'

Schoolmistress b.1893[1]
(Widdowson, 1983, p.67)

'I never made plans for a pension. No, I was one of those "live-todays".'

Early 20th-century nurse
(Maggs, 1983,p.131)[2]

PART II

The Entry of Women into Occupational Pension Scheme Membership to 1939

Introduction

Chapters 1 and 2 relate the development of occupational pension provision to the increasing participation of women in paid work from the mid nineteenth century to World War II. The focus is on women as paid employees who, in certain occupations, gained rights to membership of superannuation schemes. A parallel development of occupational widows' and survivors' pensions which benefitted women as dependants of scheme members is discussed in Chapter 8.

Growth in occupational pension schemes took place in a period during which new employment opportunities opened up, with a contemporaneous development of educational provision and opportunities. However, such possibilities were constrained by an individual's family financial circumstances and by his or her location in the social class structure and, for women, they were further constrained by custom and regulation, much of which related to marital status. Throughout the period, a married women was assumed to be her husband's financial dependant and was, other than exceptionally, disbarred from those better paid and 'white collar' occupations which were the very types of employment wherein occupational pension schemes were pioneered. It was the single[3] woman who, initially, benefitted from occupational pension provision.

In the later decades of the nineteenth century and particularly, after the first World War, increasing numbers of single women were compelled by financial necessity, as well as by motivations of interest

and principle, to seek paid employment. Such employment was characterised by low pay and by occupational segregation. Many such women could expect an impoverished retirement. There seems no doubt that the growing popularity of public sector employment especially teaching, and the Civil Service, owed something to the fact that these were considered 'secure' fields of employment, not least because they held the promise of an occupational pension on retirement. For most single women this would have represented the surest bulwark against want in old age.

Chapter I

The Development of Occupational Superannuation Schemes

I Scheme origins

Study of the antecedents to nineteenth century occupational pension schemes proper, reveals a delightful confusion in the terminology of pensions (Rhodes, 1965, pp.14-15). Raphael [4] has traced the granting of the first public pension in 1684 to one Martin Horsham, a Port of London employee, who was 'soe much indisposed by a great melancholye that he is at present unfit for business'. Titmuss (1976, p.202) comments that the criterion for receipt of this particular pension was unfitness not chronological age. Namier [5] notes 18th century 'pensions' and 'annuities' as being given not only to retired officials but also to dukes. These noble personages seem to have been granted an early version of Family Income Supplement designed to help them 'keep up appearances of strength and splendour required from men placed so near the Throne;'. Nor were women excluded from such rudimentary public sector provision, since lesser pensions were apparently granted to many women, parasites and foreigners 'of a less dignified character' than were the dukes (Rhodes, 1965, pp.14-15).

Government service

Early occupational pension provision within individual government departments has been noted as 'a record of men in search of some acceptable principles of equity by which the costs of pensions for the aged and infirm should be distributed' (Titmuss, 1976, p.202).[6] Between 1684 and 1712, in Customs and other branches of the Civil

Service, three phases of pension development have been identified: firstly the sale of an office by the holder to a personally nominated successor ---'on grounds of infirmity, sickness and old age': secondly, initiatives taken by the public authorities to propose the granting of a pension to an individual employee whose successor's salary was then charged with the cost of the pension: thirdly, 'the invention of the superannuation fund' and the establishment of the principle of collective responsibility whereby 'the young became responsible on average terms for the income-maintenance of their aged predecessors in office.' (Ibid.) Thus 'even before the nineteenth century, the problem of providing for public servants who were unable, through old age or incapacity, to continue working had been recognised.' (Rhodes, 1965, p.15)

Yet, as Rhodes makes clear, government departments differed in their methods of dealing with the problem and the situation was further confused by the varied means of remuneration for public servants. Some were paid salaries, some fees, some both. A sinecure might provide not only a salary in a working lifetime, but the equivalent of a pension in old age. Furthermore, it was possible to receive remuneration and use part of it to pay a deputy to perform the duties of the office (ibid., pp.15-16). In the Post Office, public servants 'were generally allowed to make private bargains for annuities with their successors.'(7)

Not surprisingly such a system of remuneration was open to abuse. In 1785 three Commissioners were appointed 'to inquire into the Fees, Gratuities, Perquisites and Emoluments' of various public offices. Thus, attention became drawn to the ways in which modes of remuneration could be manipulated so as to provide what were, effectively, retirement pensions (ibid.,p.16). Events then moved slowly towards the setting

up of a superannuation system in the public sector. A Treasury Minute of 1803, 'one of the great landmarks in British social policy' (Titmuss, 1976, p.202) set out 'a scale of allowances for certain Customs officials who had served with diligence and fidelity' and were 'absolutely incapable' from infirmity of mind or body to perform their duties (Rhodes, 1965, p.17). The Committee on the Public Expenditure which had been given responsibility for 'recommending reductions in public expenditure without detriment to public service' (ibid.) approved the Minute of 1803 'as uniting a due consideration towards long and meritorious service with a just attention to economy'.(8)

During this decade, James William Hay, senior clerk in the Foreign Office, got a pension of £500 in 1805 'in consequence of his being rendered incapable, by his continued ill state of health of attending to the duties of his employment'. So did William Henry Higden (£600), second clerk of the Colonial Office, 'on account of his advanced age and infirmities from a Paralytic Stroke, and in consideration of his faithful and efficient services during a period of 37 years'. Esther Spyer 'widow of the late Deputy Office Messenger' (Foreign Office) was in 1803 granted a life pension of £50 'in consideration of the particular circumstances attending his death and of his having left his widow and four children unprovided for'. Other lesser dignitaries were pensioned off, including John Stewart, a superannuated porter, who received £75 p.a. and Elizabeth Player who had been housekeeper to the Commissioner for the Care of Sick and Wounded Seamen. Pensions were paid to widows and daughers 'determinable on marriage' or, in the case of daughters, on reaching 21: occasionally they were paid to sisters or 'relatives'. (Le Livre Rouge, 1810)(9)

Legislation enacted in 1810 (10) set up a non-contributory super-

annuation scheme for civil servants, encompassing three chief principles. Pensions were to be paid only to employees who were too physically or mentally incapacitated or too affected by old age to continue working. Pensions were to increase in relation to years of service completed and were to be, other than in cases of exceptionally long service, rather lower than the salary received while still working (Rhodes, 1965, p.17). By 1821 the cost of superannuation was being investigated with a consequent recommendation that the scheme should be amended to require employee contributions (ibid.,p.47). An Act of 1822 (11) fixed such contributions at 2½% for salaries between £100 and £200 and 5% for those in excess of £200, the intention being to meet half the cost of the scheme in this way (ibid.,p.48). Two years later, however, as a result of opposition on the grounds of violation of original terms of employment, an Act (12) was passed which not only abolished contributions but required the return of those which had already been paid (ibid.).

Over the next ten years the issue of contributions remained a live one, culminating in the Superannuation Act of 1834. (13) This repealed the earlier legislation and introduced a scheme to provide a pension of two-thirds of salary at a minimum age of 65, after 45 years service (Pilch and Wood, 1979,p.4). Those who had entered public service after August 4th 1829 were required to pay contributions (Rhodes, 1965, p.49). In this way public employees who would these days be classified as 'established' Civil Servants were enabled to participate in a comprehensive occupational pension scheme.

In 1856 a Royal Commission was set up to review the pension scheme, reporting in 1857, the same year in which employee contributions by civil servants were once more abolished. The 1859 Superannuation Act 'marked the final step in the establishment in all essentials

of the modern Civil Service scheme.' A minimum retirement age of 60 was laid down, at which point a maximum two-thirds pension could be obtained after 40 years' service (ibid.,pp.50-51). Thus the diarist A L Munby 'beginning humbly ... at the age of thirty-one ... as a supernumerary clerk with £120 a year' (Hudson, 1974, p.45) on January 2nd 1860 in the office of the Ecclesiastical Commissioners, was able to record on June 30th 1889 "As from this day, I retire from Whitehall, after 29½ years. The Lords of the Treasury allow me five extra years, for special services, so the retiring pension is £340 p.a." (ibid.,p.414). Titmuss comments on the Superannuation Act of 1859 and the preceding legislation as having 'wrestled with the most intricate problems of pension planning which policy-makers in Western countries are confronted with in the 1960's citing issues among which are some central to this study, such as 'the proportionate relationship of benefits to earnings; the problem of inflation, length of service and peak earnings in later life; the definition of retirement and the age of retirement.' (Titmuss, 1976, p.203)

The 1859 scheme remained largely unaltered until the 1909 Superannuation Act which resulted in the pension being calculated on one eightieth of final salary for each year's service, equal to half pay on maximum service, with the addition of a lump sum on retirement (Rhodes, 1965, p.51). At this point one 'intricate problem' with which the earlier architects of public service pension provision did not have to deal presented itself in the shape of women Civil Servants who had come into public sector employment since the passing of the 1859 legislation. They resisted the new arrangements made under the 1909 Act. It was not until the Superannuation Act of 1935 that both sexes achieved 'the same' pension rights in the Civil Service (Martindale, 1939, pp.174-75).

Teachers' pensions

In 1846 the Committee of the Privy Council on Education provided for pensions to be paid to aged or infirm teachers with at least fifteen years' service and an untarnished character (Rhodes, 1965, p.23) though few of these discretionary "Code" pensions were actually granted (Gosden, 1972, p.132). A minute of 1851 laid down that a maximum of £6,500 was to be spent on pensions in any one year and that no more than 270 teachers were to be in receipt of pensions, in these proportions: 20 pensions of £30 each, 100 of £25, and 150 of £20, the remaining £400 to be distributed in the form of donations or special gratuities (ibid., p.133). An existing pension could be withdrawn if the pensioner proved later to have 'sufficient means of livelihood from other sources'.(14) And in 1862 all existing pension arrangements for teachers were withdrawn until 1875 (ibid.).

Pension campaigning by teachers was one of the main reasons for the foundation of the National Association of Elementary Teachers (1870). Vigorous agitation by this Association led to the eventual restoration in 1875 of the defunct discretionary pension scheme (Tropp, 1977, pp.123-26). In 1884 the limitation of the number of pensions which could be awarded ceased to apply to pre-1851 entrants to teaching. The amount which could be spent annually was increased in the years up to 1898 when the Elementary School Teachers (Superannuation) Act was passed (Gosden, 1972, pp.33-35).

The attempts of the London School Board to establish a superannuation scheme for its own teachers in 1885 (Tropp, 1977, p.125) had led to the setting up of a Parliamentary Select Committee which, in 1892, recommended the adoption of a national scheme with retirement at 60 for men and 55 for women (Rhodes, 1965, p.26).(15) After further

governmental review, a national superannuation scheme was devised (1898) and applied from 1899 to all new certificated [16] elementary school teachers and to those already in service who accepted it. [17] The arrangements, 'which seemed to owe nothing to other public service schemes of the time' (Rhodes, 1965, p.62) were based on annual contributions to a Deferred Annuity Fund of £3 (men) and £2 (women) with an annuity payable at the age of 65 on a scale related to payments based on completed years of service. In addition, the Treasury made an annual allowance of ten shillings for each year of service and this was used to make up the pension payments for those teachers who entered the scheme too late to accrue the maximum forty years of contributions (Gosden, 1972, p.135).

The 1898 Act established 'the principle that teachers were public servants entitled to superannuation' (ibid., p.136), and the scheme survived an attack by the Government Actuary in 1908 when a large deficit in the annuity fund was revealed, due to an inconvenient predisposition towards longevity on the part of the male annuitants (ibid.).[18] Meanwhile complementary superannuation schemes were organised for teachers in certain local authorities so that by 1912 the National Union of Teachers estimated that a third of the certificated teachers in England and Wales were benefitting under such arrangements to the extent that 'it may be said that it is now impossible for officers of a local authority to obtain a local superannuation scheme unless the teachers are included too.' (Ibid.) [19]

At the outbreak of the first World War official consideration was being given to the feasibility of extending superannuation to teachers in secondary, technical and art schools and in training colleges (ibid., p.139). In 1918 a Teachers' Superannuation Act was passed

which introduced a non-contributory unfunded scheme for all teachers (including uncertificated elementary school teachers) in grant-aided elementary and secondary schools. The scheme was modelled closely on that of the Civil Service. The pension was calculated on the basis of one-eightieth of the average salary received during the last five years of service in a recognised school, multiplied by a maximum of forty years' service. In addition, a lump sum calculated at the rate of one-thirtieth for each year of service was payable when a teacher retired (ibid.). In consequence of public expenditure cuts in 1922, contributions were levied, despite an energetic campaign of opposition by the N.U.T., though an important concession was granted in the form of tax relief on contributions (ibid., pp.140-41). A further Act of 1925 established beyond doubt that a retirement pension was a right for any teacher fulfilling the conditions for its receipt (ibid.,p.143).

Other local authority schemes

As indicated above, certain local authorities had set up pension schemes for their employees by the turn of the century, from which some teachers were able to derive enhanced provision. Discretionary pensions had been made available to Poor Law Officers from 1864, but they were paid out of the same fund as officers' salaries and it was 1896 before a contributory scheme was introduced which allowed for retirement at 65, as the result of a successful private member's bill (Rhodes, 1965, pp.52-53). General superannuation schemes for local authority employees had been preceded by substitute arrangements such as Manchester Corporation's Thrift Fund (1891) (ibid.,p.55). Superannuation schemes proper required a local Act of Parliament to promote their

inception. By the outbreak of the first World War, where such schemes were in existence, they required joint employer/employee contributions usually at 2%-4%, with the pension calculated in one-sixtieths (ibid.,p.57). Dissatisfaction over the lack of national superannuation arrangements was voiced in the pre-war period, a National Association of Local Government Oficers having been established in 1905 (Poole, 1978, p.18). A government enquiry was promised in 1914 to meet dissatisfaction over pension provision (Rhodes, 1965, p.56).

NALGO achieved trade union status in 1920 with a main aim of establishing a national pension scheme (Poole, 1978, p.18), a Departmental Committee having reported in 1919.(20) Following legislation introduced in 1922 via a private member's bill, a national local government superannuation scheme was set up but it was left to individual local authorities to decide whether or not they would adopt it. A minimum membership of 50 was required. Arrangements were made for employee pension rights to be transferable between local authorities. Not until 1937 was a compulsory national superannuation scheme adopted, following a lengthy period of investigation into local authority staffing matters.(21) This scheme was a one-sixtieth 'terminal salary' arrangement with a compulsory retirement age of 65 (60 for some categories of female nurses). Employees contributed at 6% into individual local authority superannuation funds. The scheme was restricted to 'officers' i.e. salaried staff, though local authorities could and did have their own schemes for 'servants' i.e. manual/waged employees. By the 1920, national schemes also catered for police (1921) and firemen (1925) (Poole, 1978, pp.21-22; Rhodes, 1965, pp.58-63).

Private sector provision to 1939

The early history of occupational pension schemes provided outside the public sector is only now beginning to be documented. (22) Private sector schemes, like their public counterparts, began as arrangements which were 'not guaranteed by means of a scheme but were ex-gratia payments made by the employer at his own discretion.' (Rhodes, 1965, p.64; see also Owen, 1935, pp.82-83; Russell, 1982, p.158) Rhodes (ibid.) argues that cost would have been a limiting factor in converting such informal arrangements into formal schemes. Nonetheless, by the close of the nineteenth century, Charles Booth could comment

> 'Everywhere a good deal is done for old servants. Their care is a recognised charge on all industrial and commercial undertakings of standing.' 'There are many old people in the receipt of industrial superannuation allowances more or less charitable in their character, though very often given as an acknowledgement and recognition of past services.' (23)

By this time, funded pension schemes had been developed by railway companies, banks, insurance companies and some industrial firms. Unusually, railway companies provided pensions both for their salaried staffs and for their 'servants', that is, manual workers. It was usual for employers to devise pension schemes, initially, for salaried staff: manual workers, typically, acquired membership of 'a more modest and restricted scheme' (Rhodes, 1965, p.65) if indeed they were ever brought within the scope of such provision. Russell (1982, p.159) states that the practice of providing 'white-collar' pensions was well established by the end of the nineteenth century, though for manual workers this was not the case. She comments that manual workers, typically, died in service or worked on if they lived. There was a blurring between the states of sickness and old age and evidence exists to show that elderly men were kept on to do light work by firms

such as Rowntrees who, in effect, conferred 'hidden pensions' on such employees (ibid., p.166). This was one response to increasing longevity (see Gilbert, 1966, pp.171-74).

Private schemes appear to have calculated pension payments either on 'average salary' earned over a lifetime and multiplied by the number of years of service (a less financially advantageous procedure than the 'terminal salary' scheme adopted by the Civil Service) or via 'money purchase' schemes whereby the amount of pension eventually paid is directly related to the amount of contributions paid and interest earned thereon (Rhodes, 1965, p.66).

One problem area in the development of private schemes lay in the necessity for such schemes to be able to guarantee eventual payment, there being no statutory base for this, as in the public sector. Hence, an alternative to the expensive operation of setting up a self-administered scheme (with a fund guaranteed to provide pensions even if the employer went out of business) was, especially for smaller firms, to insure each employee. Deferred annuities could serve the purpose of a pension scheme (as the teachers had already discovered) and if 'they were of the endowment assurance type cover was provided against the risk of death and might also provide a pension if the lump sum payment at maturity could be converted into an annuity.' (Ibid.)

By 1918 it was estimated that there were less than 400 staff superannuation funds, mainly paying pensions only, and a similar number of provident funds providing lump sums (Midland Bank Review, 1958, p.4). After the first World War, developments in the private sector were stimulated by various tax concessions allowable to employer and employee under both the Income Tax Act 1918 and the Finance Act 1921.

The niceties of tax legislation furthered the practice of providing separate schemes for higher-paid 'staff' and, less commonly, their lower-paid colleagues. Payment of tax-free lump sums on retirement became possible under the 1918 legislation (Pilch and Wood, 1979, pp.5-6). It is such lump-sum payments and other tax reliefs associated with occupational pensions which have continued to distinguish the former from state pension provision. From the late 1920s, 'group life and pension schemes' were introduced on a model developed in the U.S.A., whereby an insurance company effected a scheme for a whole group of employees (Rhodes, 1965, p.87).

Thus in the mid-thirties Owen (1935, p.82) [24] could refer to a 'remarkable outburst of increased activity' in the occupational pensions field, with 'bona fide' formal pension schemes replacing the old 'grace and favour' arrangements which, where they still existed, tended to be very unsatisfactory. Owen describes the growth of 'funded' pension schemes which originally had been invested wholly or partly in the firm itself but increasingly came to be invested outside the firm, or, by the late twenties, in special trusts. [25] By the twenties and thirties far more attention was being paid to the 'actuarial soundness' of these funds (ibid., p.83). Owen notes as an important development the use of insurance companies to set up and run schemes, relieving the firms of the trouble of doing this themselves and further advancing the growth of occupational pension provision (ibid.).

Jones (1983, pp.61-62, 69) notes the growth of occupational pension provision between the wars as part of an expansion of occupational welfare provision which occurred, characteristically, in 'large successful and well-organised firms', typically in the south of England. Where manual workers were provided for, it was usual to have separate schemes.

Owen, writing of arrangements in the mid-thirties, states that the most numerous schemes were those providing for 'administrative and clerical staffs': quite commonly firms made separate provision for manual and non-manual workers. Women employees were treated differently again (Owen, 1935, p.84). Most schemes were devised to require both employer and employee contributions, though 'staff' contributions were usually wage-related, while manual employees paid a flat rate (ibid., pp.84 and 87).

No official statistics were collected on occupational pension schemes until an enquiry was instituted by the Ministry of Labour in 1936 and published in 1938. Excluding the Civil Service and other public sector schemes, it was found that 6,544 employers had voluntarily adopted pension schemes, covering 1,617,000 employees, the vast majority of whom were members of schemes operated by individual employers, as opposed to group schemes 'covering a number of firms or undertakings' (Ministry of Labour, 1938, p.172). There was an even split between 'staff' and 'manual' workers in terms of numbers covered, though only 1,600 of the employers had pension schemes covering manual workers (ibid.).

The Ministry of Labour estimated that in 1936 about 80,000/90,000 people were already drawing occupational pensions in the categories surveyed from 'definite pension schemes on a pre-arranged basis' (Ibid, p.174) These figures excluded persons formerly employed in public service occupations and were not divided into staff and manual categories. Though no supporting evidence was presented, it was stated that 'considerable numbers' of people were drawing 'ex gratia' or other pensions not derived from formal schemes.[26] Nor is it known what proportion of women were receiving any form of pension, though about 20% of the employed persons estimated as being in membership of private

occupational schemes in 1936 were female (ibid., p.172).

In the next chapter an account will be given of the entry of women into white-collar employment and, thereby, into membership of pension schemes. However, pension schemes were originally and indubitably designed by and for men and the remainder of this chapter is addressed to the rationale of this pension provision up to the outbreak of World War II.

II The rationale of occupational pension provision

What were the arguments for and against the provision of occupational pensions before the second World War and how did such arguments relate to the introduction of statutory pension provision? Why did employers go to the trouble of assisting their employees to provide for their old age? Why did employees seek such provisions as a right?

Rhodes (1965, p.17) views the early developments in Civil Service superannuation as 'incidental and subordinate to a much wider concern and movement to check corruption and reduce cost to the public service', though by 1857 'the main emphasis seems to have shifted away from the idea of checking abuse and moved towards the need for efficiency: and now an increasing variety of reasons is put forward in favour of a pension scheme.' (Ibid., p.19) He notes that throughout the nineteenth century, it is the advantages which accrue to the State in being able to 'get rid of men who are either worn out or for any other reasons are incompetent' which are emphasised, rather than those accruing to the employees themselves (ibid., p.20). While it seems true to say that the Royal Commission which reported in 1857 [27] was conscious of the hardship which might be caused if older and/or infirm men were dismissed without pensions (ibid.,p.18), such considerations tended to be absent or consigned to a less than significant position

in other contemporary arguments. Indeed, the Northcote-Trevelyan Commission of the same period reckoned that the provision of pensions was a negative influence on Civil Service recruitment since they furnished 'strong inducements to the parents and friends of sickly youths to endeavour to obtain for them employment in the service of the Government.' (Ibid., p.19)[28] By the end of the century, arguments for the provision of Civil Service pensions also encompassed their usefulness in retaining employees who might otherwise be tempted elsewhere. In addition, there was a realisation that, in the event of there being competition for recruits to the service, it had to be borne in mind that other potential employers such as banks, insurance companies, railway companies and other commercial and industrial employers as well as other public sector employers, had developed superannuation schemes (ibid.).

'Efficiency' was a major consideration in the arguments for the provision of pensions for elementary school teachers from the mid-nineteenth century. However, strong counter-arguments were martialled in the name of support for the traditional virtues of prudence and thrift as exercised by individuals. In the 1850's pressure was put on teachers to subscribe to assurance societies though, in reality, as a contemporary HMI commented, 'It is all very well in theory to subscribe to this and that insurance company, but practically the necessities of a teacher with a family are too pressing to allow him to do it.' (Tropp, 1977, p.42) As early as 1848, H M Moseley, an HMI, 'drew up an elaborate scheme for creating a Teachers' Superannuation Fund' and, six years later with a colleague, presented a petition to the Lord President of the Council signed by no fewer than 725 church schoolmasters (ibid., p.29). Moseley is quoted as saying 'In old age, the schoolmaster is continued in his office when he has ceased to

be equal to the discharge of his duties, because there is no other means of providing for his support.' (Rhodes, 1965, p.23) The choice 'was often between inefficiency and sending the teacher to the work-house.' (Ibid.) Yet the government of the time, while content to tighten its control over schools and teachers, insisted that they had no direct claim on the State for superannuation (Tropp, 1977, p.31).

The original discretionary teachers' pension scheme granted pensions to schoolmasters and schoolmistresses who were 'incapable by age or infirmity of continuing to teach a school efficiently.' (Rhodes, 1965, p.23) However, the Revised Code of 1861 abolished teachers' pensions amid arguments for the necessity for thrift and providence among members of the teaching profession (ibid., p.25). Teachers appear to have been called upon to demonstrate 'model' lifestyles according to the values of the time. Yet the 1857 Commissioners examining Civil Service pensions provision had scrutinised and dismissed the argument that in return for a proper salary 'it ought to be the business of a Civil Servant to make provision out of that salary for his own future wants and those of his family.' (Ibid., p.19)

In the event, a Select Committee [29] which reported on teachers' pensions in 1872 found arguments in favour of pensions not only on the basis of 'efficiency' but also on the grounds that there was a need 'to improve the quality of those who entered the profession and to stop qualified people from leaving it.' (Ibid., p.25) This committee heard witnesses who were opposed to pensions. Rhodes argues that one reason why elementary school teachers got pensions at the end of the nineteenth century was 'the weakening of the strict views of self-help, which had so characterised the middle years of the century.' (Ibid.)[30] The pensions already granted to Civil Servants, some

local authority employees and by various commercial and industrial undertakings can perhaps be taken as proof of this statement.

The debate on the virtues of self-help was nowhere more vociferous than in the arguments and counter-arguments which surrounded the campaigns for the introduction of statutory old age pensions. Evidence about the nature of the relationship between old age and poverty became increasingly available at the end of the nineteenth century.(31) But in the 1890's, while one lobby advocated the introduction of statutory old age pensions on the grounds that 'the maintenance of the aged should be a public charge upon the whole community, and should include a general scheme of pensions,' (Mowat, 1961, p.141) opposing views were well in evidence. 'What society requires for its reformation is not that each man when he comes to the age of 60 shall find that his fairy godmother, the State, has put a balance at his bankers, but rather that, during his life, he shall have followed the prudent course of so limiting his responsibilities to his income that at 60 he finds himself in possession, by his own exertion, of adequate provision for his old age .... To remove the necessity of providing for old age would be to remove one of the most potent influences of civilisation.' (Ibid., p.143)(32)

Eventually the advocates of statutory old age pensions won their cause with the passing of the Old Age Pensions Act (1908).(33) Prior to the availability of this means-tested benefit, people had to rely for an income in their old age on savings, benefits accruing from contributions to assurance schemes and Friendly Societies, occupational pensions or on help from members of their own families. Many were without such income support, or had insufficient for their needs, in which case their only recourse was to seek aid from charitable sources or from the poor law which, at worst, meant the workhouse

rather than out-door relief.[34] Two years after the passing of the 1908 Old Age Pensions Act, 411,489 persons were recorded as being in receipt of the small pension (5 shillings at maximum) which was given at the age of 70 to persons of either sex, to those of very limited means and of (attested) upright character, that is, sane, provident and hardworking (Gilbert, 1966, pp.216-217, 222-223).[35]

After the first World War, the Widows', Orphans and Old Age Contributory Pensions Act 1925 [36] was passed, which 'changed the whole basis of state pensions: in place of the concept of a pension as a reward on certain conditions to the deserving poor who had failed or been unable to make provision for themselves, was substituted an entitlement to a ten shilling pension in return for making contributions' (Rhodes, 1965, pp.36-37). Everyone who was insured under the 1911 National Insurance Act became insured under the Old Age Contributory Pensions Act. Pensionable age was reduced to 65 and 'all restrictions with regard to means and property were abolished.' (Wilson and McKay, 1941, p.95) However a ceiling was set on the income level which entitled an employed person to membership, which excluded those who were, by the standards of the time, well-paid workers (ibid., pp.99-100).

In the debates which preceded the passing of the Act, the legislation was supported on familiar grounds that it promoted thrift and yet 'it was not intended to be a complete substitute for every other provision for the same purpose.' 'Those virtues of thrift which had done so much for the country in the past would be encouraged.' (Ibid., p.91) Hopes were expressed that 'employers would be encouraged by the scheme to formulate systems of additional pensions for their work-people.' (Ibid.) However, whole categories of persons were, in the event, excluded from the new contributory pension scheme, by virtue of having employment giving access to occupational pension benefits,

ie. Civil Servants, railway clerks and salaried workers, teachers (ibid., p.112-114).

As has been shown, the public sector was comparatively well advanced in its provision for salaried workers. By the late 1920's, private sector provision was expanding. Some of the principles which informed the many individual private pension schemes are nicely expressed in a contemporary handbook (Dougharty, 1927) which states that 'the considerations which usually lead up to the question of forming a pension scheme generally arise from a desire - a) to encourage and promote thrift, among a body of employees; b) to provide for old age, and a period of retirement; c) to anticipate on a sound basis the moral obligation of an employer to relieve from service and automatically provide for those servants who have given him the best years of their lives' (ibid., p.1).

The author, undoubtedly advocating the interests of the insurance industry, was specific as to the advantages to employers. Pension provision leaves the employee 'to a great extent, free from anxiety as to the future' and consequently able to 'direct his (sic) best energies to the present', which in 1927 might well have meant considerable concentration on the best means of hanging on to his or her job.

> 'the employer who can hold out a sound pension scheme is able to secure more easily and to retain the service of a better class of men. It will also follow in the majority of cases that, where a servant becomes inefficient through old age, the employer with a pension fund is able, without hardship to such a servant, to replace him by a younger and more efficient worker, and probably at some little saving.' (Ibid., p.2)

The attractions of occupational pension schemes are shown to include benefits for dependants. 'The time has fortunately passed when employers or firms regarded a pension as an act of grace or charity, and the view is now generally held that such a benefit is really in

the nature of deferred pay.' (Ibid.) Dougharty argues that this view is upheld by the Inland Revenue, in that they define occupational pension benefits as earned income.

The writer makes another point which is highly relevant to the further development of occupational pension schemes in the inter-war period. The 1925 legislation restricted participation in the new state contributory pension scheme to employed persons earning less than £250 p.a. It excluded those who were, by the standards of the time, well paid. 'Employees earning a wage of a larger amount are dependent upon their own resources, or staff pension funds, for any pension.' (Ibid., p.4) In this knowledge, private employers could consider the pension position of their salaried workers.

Russell (1982, p.177) argues that the establishment of 'good' pension schemes set precedents for other employers to follow, even at a time of depression. She points to an emerging trade union interest in employers' pensions during the inter-war period, with non-cash remuneration becoming an acceptable alternative to increased pay, on the basis of employee-led demand (ibid., p.180). Though, as Jones clearly shows, 'progressive' employers were anxious to increase their provision of occupational welfare during this period (including pension provision) as part of their industrial relations strategy (Jones, 1983, esp. p.67). Ironically, although employers sought to reduce class antagonism 'many of the schemes worked directly against this end because they were provided on a differential basis, so re-inforcing the feeling of "them" and "us".' (Ibid., pp.69-70).

However, inter-war occupational pension provision was not divisive solely in relation to occupational class. It was also divisive by gender. Differential arrangements were made for male and female employees by the providers of occupational pension schemes. Many

women, by virtue of their location in the occupational structure and because of contemporary views on the extent to which women 'needed' pensions, were either excluded from schemes or given access only to special provision for women. A fresh interpretation can be put on the history and rationale of occupational pension provision by discussing such provision in relation to the appearance, in the later 19th century, of 'white collar' women in the labour force.

Chapter 2

Women's Paid Employment and Access to Occupational Pension Scheme Provision

I The female white-collar and professional worker

In the mid-nineteenth century, women's opportunities for access to employment and education were constrained by custom and regulation. Such constraints related not only to gender and placement within the social class structure but also to marital status.(37) With rare exceptions, those young women (drawn mainly from the middle and artisan classes) who were the female counterparts to the male employees in pensionable occupations were expected to be financially dependent on their fathers before marriage. It was a sign of 'reduced circumstances' if such single women worked and 'governessing'(38) in some form was one common solution to penury.(39)

The 'duty' of every woman was to get married. The entry of women into white-collar occupations in the later decades of the nineteenth century was closely connected with the fact that many women were fated to 'fail' in that duty (see Holcombe, 1973, esp. Ch.I, pp.3-20). If a woman 'failed' to marry, her position was equivocal.

> 'Married life is a woman's profession: and to this life her training - that of dependence is modelled. Of course by not getting a husband, or losing him, she may find that she is without resources. All that can be said of her is that she has failed in business..... (Saturday Review, 12 November 1859). (40)

This stark comment related to a subject which remained topical up to the second World War - that of the 'superfluous' woman, usually taken to be synonymous with the single woman (see appendix to this chapter).

Richards (1974, p.352) argues that the range of employment opportunities for women in the mid-nineteenth century was 'tragically restricted' so that there emerged a 'vast surplus army of employable women in the labour market which was to be a very considerable problem of the Victorian age'. For indigent middle-class single women the 'higher' types of domestic service such as 'governessing' or, less commonly, work as a 'lady's companion', were traditional forms of paid employment, with school teaching and nursing only just beginning to open up as possible alternatives.(41) The plight of such women was brought to public attention by Barbara Leigh-Smith in 1855 in a pamphlet (Women and Work) which 'immediately called forth a flood of criticisms and comments in the ordinary Press.' (Strachey, 1978, p.91)

Barbara Leigh-Smith, Jessie Boucherett and associates founded the Association for the Promotion of the Employment of Women (1859), their work eventually extending to the related activity of promoting education and training opportunities for girls and women. In the last three decades of the nineteenth century, 'white collar' employment opportunities for women became more diverse, though such employment (almost exclusively restricted to single women) was characterised by low pay and occupational segregation (ibid., Ch.XII). Indeed, as will be seen, better educated middle class women who were willing to work for low pay constituted a favoured form of labour in some occupations, notably, clerical work. Holcombe (1973) has defined the chief occupations of 'middle-class working women' between 1850 and 1914, as being those of teaching, nursing, the distributive trades, clerical occupations and the Civil Service. With the exception of nursing, these expanding occupations also recruited large numbers of men.

Changing attitudes towards working women (as well as a drive to tighten up poor-law administration procedure) may be deduced from the fact that, whereas in the original Poor Law Report of 1834 'the single independent woman is nowhere mentioned',[42] by 1871 a circular 'proclaimed that out-relief should in no circumstances be given to able-bodied single women, except on a labour test. Single women were now treated exactly as men - as potentially recalcitrant members of the labour force.' (Thane, 1978d, p.38) This indicates that an unmarried woman who was unable to support herself in the latter part of the nineteenth century could, if destitute, have been defined as a charge on her 'liable relatives'. Given the stigma of contact with the poor law authorities, it is unlikely that these 'liable relative' regulations were often put to the test in the case of impoverished middle class women. The onus, increasingly, would have been on such women to find or be placed in employment, perhaps with aid of charities designed to cater for such 'deserving cases' (see ref.57).

Holcombe (1973, p.215) estimates that during the period 1861-1911 there was a 307% increase in the number of women in England and Wales in the five 'chief occupations' of middle-class working women as compared with a 192.3% increase in the number of men. 'The rate of increase for both men and women in the five fields of work..... was substantially higher than the increase for men and women in the total working population.'[43] In 1861, men in those occupations represented 8.5% of the total male working population - by 1911, this population had risen to 14.1%. For women the corresponding rise was even greater - from 5% to 16.4% (ibid., Appendix, Table 6e, p.215). It has been estimated that by 1911 there were, altogether, 1,114,000 women in 'middle-class' occupations, as compared with 1,669,000 men so occupied (ibid., Table 6f, p.216). However, the 'higher professions' had largely

succeeded in keeping women out altogether, despite an expansion of opportunities for women to enter higher education (Strachey, 1978, p.263).

The 1911 Census was the first to show the marital status of working women in detail - 77.4% (4,830,734) of all working women were unmarried, 8.5% (411,011) widowed, and 14.1% (680,191) were married (Holcombe, 1973, Table 6g, p.217). Throughout the whole period of the development of occupational pension schemes up to World War II, the position of women in the labour market (and their educational opportunities) were much influenced by the pervading assumption that a married woman was/ should be her husband's financial dependant and that, where a young single woman was in paid employment, this situation was but a brief prelude to marriage and permanent withdrawal from the labour force.

Commonly held assumptions about married women have been bolstered by the law. The much-quoted dictum of the lawyer Blackstone (1765) is worth repeating:

> 'By marriage the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage or at least is incorporated and consolidated into that of the husband: under whose wing, protection and cover she performs everything.'(44)

For decades after, Blackstone's interpretation was highly influential. Until 1870, the earnings of a married woman belonged, by law, to her husband.(45) Hall (1979) has shown how 'the bourgeois ideal of the family' became constructed during the mid-nineteenth century as one in which the wife did not engage in paid work. However, married women of the middle and upper classes increasingly, in the second half of the nineteenth century, took up time-consuming voluntary work of a social or public service nature, including what would now be termed work with 'pressure groups' (see Summers (1979) in Burman, pp.33-61;

Strachey (1978), pp.205-24; Hollis (1979), pp.223-80; Prochaska (1980)) [46].

In addition, many employers up to the time of the second World War operated a 'marriage bar', which was differentially applied:

> 'It is a significant fact that the barriers apply almost entirely to the stable and better paid employments, and vanish at the level where cheap labour and casual work are the rule. Although women are required to resign on marriage from the Civil Service, from teaching posts under local authorities, from banking and retail shops, and from many of the best-managed businesses, nothing of the sort happens to charwomen and cleaners.' O. Strachey (1934) (47)

Thus the married middle-class woman in paid employment was an unusual phenomenon.

The first World War had a dramatic impact on the recruitment of women into white-collar jobs, especially as replacements for men who were conscripted from 1916 onwards. Marwick (1977, Table 3, p.166) states that the number of employed women in Great Britain and Ireland rose from 5,966,000 in 1914 to 7,311,000 in 1918, excluding munitions. Huge numbers of women entered 'commerce', totalling 934,000 in 1918 as opposed to 505,200 in 1974. In banking there was a spectacular rise from 1,500 to 37,600 and, in insurance, from 7,000 to 32,300. Likewise, in central and local government (including education) numbers rose steeply from 262,000 to 460,200.[48]

Marwick terms these developments 'the rise of the business girl' and argues that 'it was the war which, in creating simultaneously a proliferation of Government committees and departments and a shortage of men, brought a sudden and irreversable advance in the economic and social power of a category of women employees which extended from sprigs of the aristocracy to daughters of the proletariat.' (Ibid., p.74) This may have been so, but the end of the war saw a vast and

speedy exodus of such women from the workforce (ibid., p.122).

Thereafter, comments Richards (1974, p.353), 'the rate of progress of women into professional occupations was not maintained', notwithstanding the Sex Disqualification Removal Act.[49] Yet, as Fergusson (1963, p.59) argues, 'the post-war period offered more opportunities for women in the professional occupations than in non-professional ones.' A number of professions admitted women for the first time, though the number of entrants remained small between the two world wars.[50] Women's 'white-collar' employment was predominantly in teaching, central and local government, in clerical work and in the retail trades (ibid.). Such employment was characterised if not by low pay, certainly by 'unequal' pay, poor promotion prospects and the ubiquitous 'marriage-bar'.

The 1931 Census shows that 72% (4,320,154) of all single women over 14 in England and Wales were enumerated as occupied, 10% (896,702) of those married and 22% (389,187) of those widowed/divorced. No fewer than 483,064 women were enumerated as out of work.[51] Indeed, the inter-war period with its heavy unemployment offered many opportunities for re-inforcement of the traditional view that the married woman should receive her financial support from her husband,[52] not from her own paid employment. However, the traditional assumption that for young women, employment (if taken up at all)[53] was but a brief prelude to marriage, had been undermined in respect of a whole generation of young 'marriageable' women by the considerable casualty rate of the Great War.[54]

Pensions for single women became a public issue in the mid-nineteen thirties.[55] At the same time, statistics became available on the number of employed women in membership of occupational pension schemes (Ministry of Labour, 1938). The second section of this chapter examines

the position of women as regards access to occupational pension provision up to 1939 and ends with a brief discussion of related issues in the statutory pensions field.

II Women and occupational pension benefits

The development of occupational pension schemes in the nineteenth century has been discussed, along with the increasing participation of single women in 'white-collar and professional' occupations during the same period. To what extent did such women, most of whom engaged in paid work from financial necessity, benefit in the nineteenth century from access to occupational pension schemes? It can be deduced that these women benefitted very little. Employment which guaranteed a pension was available only in the Civil Service. The most popular female white-collar occupation, teaching, carried no established pension rights until 1898. Nursing was an occupation characterised by inadequate pension provision. In the more elite clerical occupations where private sector pensions developed, insurance took on a modest number of female recruits not necessarily entitled to employers' pension provision, while banking and the railways remained largely male enclaves.

As a result the vast majority of Victorian 'white-collar' female workers had to rely for an income in old age on employers' 'grace and favour' payments,(56) on their own savings, on the generosity of family and friends, on charitable bodies(57) or, as a last resort, the poor law (see Thane, 1978d).(58) Lack of a pension or the prospect of an inadequate pension provided incentives to keep working as long as possible.(59) The provision of statutory old age pensions in 1908 must have come as a relief to many elderly single women. Occupational pensions were received by only a small minority of working women up to 1939. During the inter-war period, within Holcombe's 'five chief

occupations', public sector teaching and Civil Service were the most likely to be pensionable, while in the retail trades, employers' pensions seem to have been unusual. However, from 1926 many working women were brought into the new state contributory pensions scheme.(60) By 1936, 335,068 women working outside the public sector were recorded as being in employers' pension schemes (Ministry of Labour, 1938, p.172).

The Civil Service(61)

The entry of women to the Civil Service was part of a wider movement of women into clerical occupations or 'office work' during the late 19th century (Silverstone, 1976) and owed much to new 'communication technology' i.e. telegraphy, telephones, typewriters, copiers and carbons. It also owed much to a great expansion in the work of the Post Office and the growth of other central government departments, with concomitant structural and functional change (Holcombe, 1973, p.164).

If there is a date from which to chart female membership of occupational pension schemes, that date is 1870. Women became civil servants at the point when, in 1870, the Post Office took over the telegraph system from a number of private companies, some of which, (in particular, the Electric and International Telegraph Company) employed women operators (Martindale, 1939, p.16). The Telegraph Act 1869 gave the Post Office a monopoly over telegraph business and required that the services of the operators be purchased along with the telegraph companies (ibid.). The E.I.T. Co. had found that these women made 'good', docile workers, content with low pay (Holcombe, 1973, p.165).(62) From 1871 the Post Office also began to employ a few women as clerical workers in the telegraph department. Once

past their probationary service, these pioneer women became entitled to membership of the Civil Service pension scheme. They were absorbed into a scheme designed for men.

The Post Office next decided to appoint women clerks to the Savings Bank, since a large supply of well-educated young women[63] appeared to be available. An official noted in 1871 that the initial entrants had many points in their favour, including their cheapness and docility. They were 'less disposed than men' to demand higher pay on grounds of long service since 'Women solve these difficulties by getting married as soon as they get the chance.' Another advantage of employing female labour was recorded: 'there will always be fewer females than males on the pension list' (Martindale, p.18)[64] The likelihood that a woman would not remain in lifelong employment was seen as a very positive asset in her favour. Yet it could have been the prospect of secure, pensionable employment which produced in 1875 no fewer than 2,000 applicants for thirty posts as female Savings Bank clerks.[65]

Civil Service employment proved attractive to women in the period up to World War I, with great competition for posts, despite low pay and severely limited promotion prospects. Employment within the Service was sex-segregated, so that women could rise only to supervise other women in women's grades. Central government took increasing advantage of the existence of a pool of cheap, competent female labour, employing cost-effective strategies such as 'down grading', 'undercutting' and the operation of a marriage bar. These strategies reduced the wage bill and cut eventual expenditure on pensions, to which only a minority of women entrants eventually became entitled, at rates which corresponded to their low pay.

In 1876 the Post Office formed a 'women's clerical branch' under a Lady Superintendent, in 1881 established a competitive entry for

a new grade of 'woman clerk', and, in 1883, created a lesser grade of 'woman sorter' who was, in fact, a filing clerk. By 1897 there were 'girl clerks' of 16-18. Gradually, some trained and experienced women clerks were filtered out from the Post Office into other departments (Holcombe, 1973, p.168). As part of the 'down grading' strategies, the main male 'white-collar' grade was split in two in the 1880's, including an elite, mainly graduate First Division. By the mid-nineties, work from the lower division was further delegated to new lower-paid grades of male clerk and women's grades took over 'men's' clerical work (ibid., pp.173-74). The women clerks' work was delegated to more junior and less well-paid women and girls. The clerical work generated by the new teachers' pension scheme of 1898 was dealt with by a group of nineteen Lady Clerks at the Board of Education: these women were segregated and had no chance of promotion (Martindale, 1939, pp.44-45).

Both men and women suffered from the 'undercutting' strategies which accompanied the 'down grading'. Established civil servants could, furthermore, be undercut by unestablished civil servants, who received even lower salaries and had no pension rights. In particular, large numbers of unestablished women came to be employed as clerks, typists and even inspectors. Some achieved permanent status (Holcombe, 1973, p.175). Women were also the subjects of a device known as 'substitution' whereby they performed higher duties which were not fully recognised via remuneration (ibid.). In addition, women's earning power was severely limited by their lack of promotion prospects: the new typing grade established in 1894 allowed merely for a progression from 'typist' to 'shorthand-typist' (ibid., p.176).

The chief merit of a post as an established civil servant was the security, generous leave and, in particular, the pension for old

age. Low pay was justified by arguments which emphasised the good conditions of service. However, for women, the job was secure and pensionable only so long as they remained single. Although no marriage bar operated initially in the Post Office, it was soon introduced (1875) for new entrants and was applied to existing staff in some departments (Martindale, 1939, p.147 and see Ch.6). The practice of generally requiring resignation on marriage dated from 1894 when members of the typing grade demanded better pay and 'establishment', which was granted on condition that service would 'cease as a matter of course on marriage' (ibid., p.148). Thus while more women became 'pensionable' while in service, the majority left before reaching retirement age.

It was decided to institute the payment of a 'marriage gratuity' to typists of good 'character and service' who had worked for at least six years, the gratuity not to exceed one month's pay for each year of service, to a maximum of twelve (Holcombe, 1973, p.178). This practice was extended to all classes of established women civil servants and the custom of requiring resignation on marriage became virtually universal (Martindale, 1939, p.148-149). Holcombe (1973, p.178) states that the mass of lower-paid women accepted the practice, believing that the exclusion of married women improved the limited chances of promotion open to single 'career' women civil servants: the more senior clerks and the small number of women of 'exceptional ability and education' who had achieved an appointment at the inspectorial grade, resented the 'marriage bar'. There is no doubt that the 'marriage bar' strategy was copied and justified in other occupations on the strength of Civil Service practice.

In 1909, the Civil Service pension arrangements were changed by the Superannuation Act of that year, so that men were awarded a retirement

pension at a lower rate but gained an additional benefit in the form of a lump sum which could be paid to the man on retirement or, alternatively, as a 'death benefit' if a man died in service. The associations of women civil servants had objected to this arrangement since their low (and unequal) pay and lack of promotion prospects were a continuing source of discontent and they objected to the notion of their retirement pension being made even lower. They also feared that women might lose the 'marriage gratuity' if they were brought into the scope of the new 'lump sum' provision. The upshot of the women's objections was that women remained within the 1859 Superannuation Act rules, while men did not (Martindale, 1939, pp.173-175).

In the years immediately preceding the second World War, women, by now well organised into their own associations, aired their grievances around low pay, job segregation and the marriage bar before a Royal Commission and a Select Committee.(66) They were not received sympathetically (Holcombe, 1973, pp.184-91). The first World War opened up new opportunities for 'established' women (67) and enabled many more women to become unestablished civil servants, some in senior posts. Most of these women were not retained. The service was re-organised into five grades after the first World War, of which the two lowest, for typists and clerical assistants, were, exclusively, 'women's grades', with no promotion prospects. Some women did enter the second 'executive' grade and a very small number passed the competitive examination into the highest 'administrative' grade (Holcombe, 1973, p.192). A handful were given a special dispensation which exempted them from the 'marriage bar', which otherwise operated universally.(68) Under the 1935 Superannuation Act men and women were given the 'same' pension rights

(Martindale, 1939, p.175) on a continuing basis of unequal pay. By 1939 there were 59,000 female non-industrial civil servants (excluding minor and manipulative grades in the Post Office) which represented 28% of the category. Just over half were typists or 'sub-clerical' clerical assistants (RCEP, 1946, S29, p.8).

Teaching (69)

Teaching and, in particular, 'governessing' in private families was a traditional occupation for women who needed an income. With the growth of teacher training and the development of formal schooling, from the mid-nineteenth century women began to train as pupil-teachers and were certificated via this route, among others (Tropp, 1977, p.22). By the 1880s and 90s elementary school teaching was becoming a popular career choice for girls of the artisan and lower middle classes, this development being linked to contemporary developments in secondary education for girls (see Widdowson, 1983).(70)

Thus, in the nineteenth century, women teachers became eligible for such limited pension provision as became available (see Ch.3). The NUT campaigned, from its inception, for a national statutory pension scheme and meanwhile established an associated provident fund, the Teachers' Benevolent and Orphan Fund, which admitted non-union members. The provident fund included pension benefits (Tropp, 1977, p.125).(71)

With the passing of the 1898 Superannuation Act, state elementary schools offered secure, pensionable employment to a certified teacher.(72) In 1899, there were 37,832 women teachers in this category, of whom nearly half were two-year college trained. The rest had obtained their certificates by private study (ibid., p.117). However, no fewer

than 15,012 female teachers who had qualified before 1st April 1899, exercised their right to opt out of the new superannuation arrangements (Barker, 1926, p.18). Thus, nearly half of the total number of women certificated teachers were unwilling to take advantage of the new pension scheme, whereas only 12% of certificated men chose to opt out.

One possible disincentive was that participation meant retirement at 65. Some women may have preferred the option of continuing to work beyond 65 as an alternative to a modest pension, or may have preferred to carry on contributing to a teachers' provident fund. Or such women may have had reason to feel that, on a low salary, they could not afford to contribute to the new scheme. On the other hand, young teachers may have decided to take the chance that they would marry.

It must also be noted that there were large numbers of female uncertificated teachers, analogous to the 'unestablished' women Civil Servants, who were not allowed to belong to the new superannuation scheme. Statistics of 1899 show 25,500 female 'uncertificated' or 'provisionally certificated' teachers (4,750 men were in the same category), 16,717 women in a special 'ghetto' class of 'additional wonen teachers', and 24,702 female pupil teachers (6,081 boys) (Tropp, 1977, pp.117-118). Furthermore, it was much harder for women than for men to achieve 'certificated' status. Tropp notes a severe shortage of training college places for women at the turn of the century. In 1899, 7,572 out of 8,216 women successfully passed the Queen's Scholarship examination which qualified them for entry to a training college, but only 1,714 (23%) were admitted. By contrast, 2,556 out of 2,904 men passed the examination, of whom 1,008 (39%) gained college

entrance. Uncertificated teachers could study for certificate examinations while teaching, but this was considered a much tougher route to qualification. Nonetheless in 1899, 51% of women certificated teachers, as opposed to 28% of men, are shown to have qualified by private study, rather than by attendance at a training college (ibid.).

Thus, despite the introduction of a national superannuation scheme for elementary school teachers in 1898, a much smaller proportion of female than male elementary school teachers (qualified before 1st April 1899) participated, for whatever reason. Also, while new entrants to the profession from 1899 on had to be members of the scheme if certificated, it was harder for women to gain the certificate. So, even in elementary school teaching, the women's career 'par excellence' before the first World War, access to an occupational pension scheme was a hard-won privilege. However, in the years before the war, some local authorities did make uncertificated teachers eligible for their pension schemes, which were 'far more generous' than the 1898 Act and these same authorities allowed certificated teachers to 'top up' their government superannuation by additional membership of the local authority scheme (Barker, 1926, p.24). National salary scales did not apply at that time.

At the outbreak of the Great War, discussions were taking place on the inclusion of secondary school and college teachers in a superannuation scheme. Holcombe notes that 'by 1912 only 126 grant-earning secondary schools - 39 council schools under the larger and wealthier local authorities, 25 Girls' Public Day School Company and 62 foundation and other schools - had pension plans covering some 1,000 teachers out of the 1,813 they employed.' Some schools granted 'grace-and-favour' pensions to retiring teachers, especially head-teachers (Holcombe,

1973, p.54). Under the Teachers' Superannuation Act of 1918, all teachers in grant-aided schools, elementary and secondary, and 70,000 uncertificated (mainly female) teachers were admitted to a new non-contributory pension scheme which guaranteed a pension at half-salary after 40 years, plus a lump sum paid at the rate of one-thirtieth annual salary for each year of service. The non-contributory scheme was soon replaced, for economy's sake, in 1925, by a contributory scheme, which was still in force by 1939 (Gosden, 1972, pp.139-142).

An interesting point with regard to the position of women teachers under the new legislation was that after 30 years' 'qualifying' service a pension could be taken at 60, though the 'normal' age of retirement for all teachers remained at 65. However, a married woman from that time was allowed to count as qualifying service 'any period not exceeding ten years during which in the course of her married life she was absent from all kinds of teaching service.' (Barker, 1926, p.24) Since most local authorities operated a 'marriage-bar' from the early years of the twentieth century, this concession was presumably included to benefit widows in the aftermath of the first World War. They were in point of fact allowed to count in ten years of married life before entering teaching (ibid.). This is a seemingly unique example of an occupational scheme which attempted to compensate for a break in service caused by 'domestic duties'. Such few married women who managed to escape the 'marriage-bar' during the inter-war period would have benefitted from this concesssion, perhaps to the envy of such of their unmarried teacher sisters who 'broke service' in order to care for aged parents and other relatives.

Up to 1939, the 'marriage-bar' played a crucial role in denying

women teachers access to occupational pension benefits in retirement. Prior to the first World War there had been no generalised 'bar' since the governing bodies of individual elementary schools had decided whether or not to appoint or retain the services of married women staff. By the 1900s, however, the new local education authorities began to impose a general 'marriage-bar' which was applied to new recruits (Widdowson, 1983, pp.65-66). In London (1908), 39% of elementary school headmistresses and 24% of assistant teachers were married.(73)

Complex motives underlay the trend towards barring married women, based mainly on rationales of cost-cutting and opening up job and promotion prospects for trained college leavers. It was also argued by teachers' unions (including women's) and local education authorities that it was unfair for married women to earn a good salary when 'young, single women and men, trained at rate-payers' expense, were unable to find jobs on leaving college' (ibid., p.66). Other arguments justified the bar on the grounds that it was Civil Service practice. Also, despite the presence in the teaching profession of women who had successfully combined a paid job with the domestic duties of marriage, and, even, motherhood, much was made of the 'fact' that married women could not cope with both teaching and the domestic duties of the marital home (ibid.). Thus, with the spread of the marriage bar, the position of women teachers in terms of access to occupational pension benefits via paid employment was subjected to detriment within a few years of the passing of the Superannuation Act of 1898.

During World War I, the bar was lifted, but re-imposed on a near-universal basis in the 1920s though the Board of Education disclaimed responsibility or even denied all knowledge of such restrictions (Partington, 1976, p.28). In the 1920s married women were hired to

do 'supply-teaching' - an educational equivalent to non-established work in the Civil Service, employing cheap labour which carried no rights to fringe benefits such as pensions. Widdowson, interviewing elderly ex-elementary school teachers, found some whose inclination to marry during this period had been affected by the existence of a marriage bar which forced a choice between financially secure 'spinsterhood' or the 'risks' of marriage at a time of economic recession and high unemployment (Widdowson, 1983, pp.65-66).

Partington (1976) has documented the insecure position of married women teachers after the first World War. The Chairman of the Nottingham City Education Authority barred married women teachers from 1921 on the grounds that better salaries were attracting married women back into posts which 'should be given to those teachers who were compelled to earn their living' (p.29), while Lincoln, in 1922, graciously thanked 37 married women teachers for their services and dismissed them on the grounds that 'in most cases their husbands were earning good money' (ibid.). Married women were seen as marginal labour: Cannock dismissed its married women in the summer of 1922, but called them back for the autumn term when there proved to be staff shortages.

A number of authorities dismissed all 'married' women except widows and those with 'dependent' husbands. One secondary headmistress survived the marriage bar, only to be dismissed on impending motherhood. Another head was 'barred' despite a huge parental protest and a pupil strike (ibid., p.29). That some authorities were aware of the connection between the 'marriage-bar' and loss of occupational pension rights is evident from the fact that married women were sometimes sorted out into 'priority' categories for retention in service, including,

in the case of Leicestershire, a category of 'Women shortly completing their qualifications for superannuation' (ibid., p.31). In Wales, where the bar was applied stringently unless (unusually) there were no other suitable candidates, legal action was taken against the Rhondda U.D.C. in the case of a married woman nearing retirement age who had been dismissed. In an important legal decision (1923), the rights of a local authority to dismiss competent women teachers solely on the grounds that they were married were upheld. The judge publicly sympathised with the teachers concerned because 'a comparatively short period to serve was required before being entitled to their superannuation allowance.' (Ibid.)

Other cases, backed by teachers' unions, were lost. An appeal was successfully made against the 1925 decision of a judge who had found in favour of a dismissed married woman teacher on the grounds that the original judgement had been incorrect in ruling that the dismissal had not been made on educational grounds. It was held that the dismissal had been made 'in the educational interest' since the grounds had related to the relative efficiency of single and married women teachers and the future supply of teachers (ibid.). Public opinion was reflected in statements from a member of an education committee: 'There are few women who could do two full-time jobs at one time' and from a clergyman: 'woman's first duty is to her husband and children if they are ill and she could only carry out her duties as a teacher by neglecting them.' (Ibid.)

Some local authorities were prepared to review cases on 'merit'. Highly personal details relating to women teachers began to appear on local authority education minutes, revealing, for instance, that 'married' women teachers were in fact separated from their husbands.

Means tests were applied (ibid., p.32). Married women teaching in voluntary schools had more success in retaining their jobs (ibid., p.30), perhaps because they were personally known to the school managers. Private members' bills were introduced in Parliament in the late twenties and thirties in a vain attempt to outlaw the marriage bar in teaching and other occupations.

The turning point came in 1935 when the Labour-controlled London County Council rescinded the marriage bar for teachers and doctors, with a statement that it was the view of the Labour party that it was 'in the public interests that a proportion of teachers should be married' (ibid., p.34).[74] Some authorities removed the marriage bar after 1935, but tended to continue to place some restrictions on married women. Partington (1976, p.47) argues that the application of the marriage bar depended on two related factors - the political complexion of the local education authority and the availability of teachers. Lewis (1983, p.24) argues that 'there is strong evidence to suggest that it was the ideology of domesticity which legitimised the policy'.

School teaching was, demonstrably, the major professional career for women up to the second World War. By 1938 there were over 130,000 women teachers in maintained schools, representing two-thirds of the total: in elementary schools 71% of the staff were women (RCEP, 1946, S78, p.23). For men and single women teachers,[75] occupational pension benefits improved during the inter-war period. While pre World War I pensions based on the 1898 scheme had averaged £92 for certificated men and £68 for women, by 1938 their real value had increased to an average £183 (plus £549 lump sum) for men, and £144 (plus £432 lump sum) for women. Furthermore, many teachers lived to enjoy their pensions

for a long time, women typically retiring at 61 with a life expectancy of 17 years and men at 62 with a life expectancy of 14 years (Partington, 1976, p.48). Employee pension contributions were returnable to women leaving on marriage, constituting an informal 'marriage gratuity'.(76)

However, although pay and pensions had improved by 1939, for women teachers it was still 'unequal' pay, with limited prospects of promotion. As more junior schools became mixed, infants were added to juniors in jointly run schools, village schools were closed and the National Association of Schoolmasters campaigned to protect the interests of male teachers. Fewer women achieved the better pay which went with a headship (ibid., p.36). Sporadic 'equal pay' campaigns by mixed and women's teachers' unions made no headway between the wars: indeed, at a time of recession and high unemployment, resentment was expressed at the 'high' level of women teachers' salaries, not least by the National Association of Schoolmasters, ever hostile to women in the profession (ibid., p.49).

From 1893 there was a small group of women university teachers. Rendel (1980, pp.146-148) identified 161 such women in British universities outside Oxford and Cambridge in 1912/13, 388 in 1921/22 and 484 in 1930/31.(77) Women represented 5% of the total before World War I and 10% thereafter, being best represented at the University of London (which had women's colleges), the University of Wales, and, especially, the external university colleges of the University of London. At these non-prestigious institutions, women comprised 53 out of a total 288 staff by 1930/31.

The universities had set up a Federated Superannuation Scheme shortly before the First World War into which both university teachers and their employers were required to pay 5% of salary for the purchase

of private insurance so as to secure an annuity and/or lump sum at 60 (Barker, 1926, p.28). Rendel (1980, p.144) quotes strictures by the University Grants Committee in 1923/24 on the need for universities to secure 'adequate status as well as emoluments for women teachers.' Rendel identified married women in university teaching before and after the first World War and concludes that there was no general marriage bar, though one may have operated in individual universities (ibid., p.145). Women seem to have been over-represented in institutions which were small, new or in relatively small and out-of-the way places. University teachers were thought to be low paid, though members of an elite profession (ibid., pp.145-146). Here then was another pensionable form of teaching. However, while female lecturers paid the same percentage of salary towards their male colleagues, their eventual annuities were lower than for comparable men retiring at the same age, in consideration of a presumed higher life expectancy in retirement.

Nursing (78)

Nursing is another 'traditional' female occupation which, with the growth of formal hospital training in the second half of the 19th century, opened up as an occupational choice for women. 'In providing a suitable occupation for the daughters of the higher social classes' which was, in reality, an approved extension of the unpaid work of the home, it offered a 'vocation' to the prototype unmarried daughter who might otherwise have undertaken 'good works' in a prosperous Victorian family (Abel-Smith, 1975, p.17). From this pool came the 'career nurses' of the 1870s and 80s who became the matrons and nurse educators of the next generation.

However, the early probationers at the London teaching hospitals were a more socially heterogenous group than myth sometimes has it, for nursing also drew its pioneer entrants to training from that same pool of lower-middle and artisan class girls who were increasingly attracted by clerical work and teaching. Indeed, since trainee nurses were required to be in their early twenties, some entrants came from those very occupations, including untrained teachers now facing competition from newly trained teachers (Maggs, 1983, p.69). A large group of entrants to the less prestigious hospitals in the closing decades of the 19th century and before World War I came from domestic service. (ibid., p.71) and a range of hospitals took young women for training who had had some paid nursing experience, often in private homes (ibid., p.73).

Abel-Smith (1975) has documented the emergence of general nursing as a 'female' profession, characterised by low pay and the social divisions which existed between voluntary/teaching hospitals (with London teaching hospitals at the apex) and poor law (subsequently municipal) hospitals. In whatever setting, hospital nursing was exceedingly hard work with long hours and, typically, poor living conditions, especially before the first World War (see Holcombe, 1973, pp.68-102). As nurse training became institutionalised, so, in another sense, did the hospital nurses. Residence during and after training became compulsory. It was general nurse training as developed in the London Hospital which came to have great influence on the provision of general nursing services.

Abel-Smith (1975, p.29) notes that nursing became a 'suitable and respectable career for women' and that matrons wielded 'absolute power' over the nurses 're-inforced by the para-military organisation

of the nursing staff and the rigid discipline imposed by the training schools'. In one sense nursing was a low-paid 'vocation', offering pay in kind as well as cash and conferring womanly skills of value in the domestic setting. But it also offered opportunities of better paid jobs to those nurses who achieved senior positions, especially those whose voluntary hospital training enabled them increasingly, by the 20th century, to obtain 'top jobs' in the public hospital sector.

The early nurses had to rely on the generosity of their employing hospital for an occupational pension. A pension not exceeding twelve shillings a week was awarded to nurses retiring after at least twenty years' service by a decision of the governors of the London Hospital in 1863 (Dainton, 1961, p.120). It was not until 1887 that the Royal National Pension Fund for Nurses was set up so as to enable nurses to buy private insurance for an annuity in retirement (Maggs, 1983, p.131). The advantage of membership of this fund was that it enabled the nurse to generate a 'portable pension' which would survive job transfer between hospitals or into private nursing. However, it was expensive and produced only a modest pension: the take-up appears to have been limited (Business History Unit, 1983; Maggs, ibid.).(79)

Maggs (p.130) states that voluntary hospital nurses envied their colleagues in the poor law hospitals for the pensions which became available as a result of the Poor Law Superannuation Act (Revised) 1897.(80) Until then, 'long-serving nurses often found themselves ill-equipped to face retirement'. After the Act, those who opted for membership could get a reasonable pension. In 1910, a Ward Sister with at least ten years nursing service could get a pension of £65 p.a. based on a notional salary of £100 p.a. The top teaching hospitals could offer quite elaborate schemes: in 1908, St. Bartholomews Hospital

had a scheme which offered two-thirds annual salary for a minimum of 36 years' service, at the age of 60, the pension being abated if the nurse retired at 55, the earliest age allowed.

It seems that nurses retired early from hospital work (Holcombe, 1973, Ch.IV). Some transferred to 'private' nursing. The London hospitals made money from hiring out trained nurses to private households (Abel-Smith, 1975, p.58). There were also nursing agencies which provided home nurses. Abel-Smith gives figures which show that over half the 69,200 'nurses' in England and Wales during 1901 were engaged in home nursing, some being 'district nurses' for the poor (ibid., p.52).

There were over 10,000 nurses working in mental hospitals, the women receiving wages comparable to those of domestic servants (Carpenter, 1980, p.132). In this low-status sector there were male nurses. The Lunacy Act 1890 allowed asylums to set up schemes for non-contributory staff pensions, but this was at the discretion of the employing authorities. A contemporary commentator on 'asylum service' in 1900 lamented the lack of pensions which had raised the status of other public sector occupations, such as the prison service. From 1909 the Asylum Officers' Superannuation Act brought in a compulsory and contributory pension scheme - a controversial move, since it effectively cut wages (Carpenter, 1980, p.134).

From the 1880s military nursing services were developed, and following the Boer war, improved pensions (available as of right after ten years' service and, at discretion, on less service) with retirement at 55 (optional at 50) plus other benefits, made military nursing a popular career choice for well-trained nurses (see Holcombe, 1973, Ch.IV). Military nurses had always been given officer status. A

very large number of young women became untrained nurses during the first World War (see Macdonald, 1984) and the existence of this group of women after the war hastened the culmination of a long drawn-out campaign for national registration of nurses. From 1919, when certain untrained but experienced nurses were 'blanketed in', nursing became a profession for which its members had to be 'registered' as trained and competent to practise (see Abel-Smith, 1975, Chs.V and VI).

Nursing also became a profession for single women, a direction in which it had been moving steadily since the 19th century. By 1921, 84% of nurses were single and by 1931, 88% (ibid., p.118). Nursing increasingly became a 'living-in' job in which there was 'unspoken prejudice against married women' and a 'calling' which demanded the nurse's full-time devotion (ibid., pp.118-119). Maggs (1983, p.135) refers to the emergence of nurses up to 1914 as a 'third sex' and states that a 'marriage bar' had operated in hospital nursing from the time of Florence Nightingale on the grounds that 'married women are no longer attached to (their) work but to (their) husbands'. Despite the chronic shortage of nurses between the wars, the marriage bar appears to have been universally practised by hospitals and local authorities.

Outside the public sector, there was no universal system of compulsory pension provision before the second World War. By 1916, most voluntary hospitals were operating a pension scheme through the Royal National Pension Fund, Maggs (1983, p.131), who interviewed elderly nurses trained before the first World War, gives his impression that few nurses seem to have taken advantage of the provision. Many nurses went on working because of inadequate pension arrangements, often due to broken service. Nurses trained in voluntary hospitals switched

into the public sector for promotion and out again. By the 1930s, far more medical treatment was taking place in the hospital setting than at home and there was an increase in proprietary nursing homes. For the life-long hospital nurse, retirement income problems would have been compounded by the fact that hospital nursing was a resident job. Thus, older or elderly nurses with inadequate incomes sought 'easy' jobs in other institutions or quasi-domestic service posts as 'nurse-companions', so as to eke out their pensions.(81)

Nurses' pay was low up to the outbreak of the second World War. This was a 'female' profession. By the 1920s, pay in public hospitals was marginally better than in their voluntary equivalents. The Royal College of Nursing was, by 1930, pressing not only for better salaries but for universal compulsory superannuation. In 1932 it was found that in England and Wales 81% of London voluntary hospitals and 68% of municipal hospitals had such arrangements (Abel-Smith, 1975, p.137). By 1937, 63% of all voluntary hospitals and 84% of all municipal hospitals had compulsory superannuation schemes (ibid., Table 10, p.277). Evidence given to the Le Quesne Committee in 1938(82) showed that while larger hospitals, which could afford to do so, subscribed to the Federated Superannuation Scheme for Nurses and Hospital Officers, there was still no universal superannuation provision. Retirement was usual at 55. A large number of the employers (1,602) listed as having private pension schemes in 1936 were 'Hospitals, Nursing Associations, etc: of which 20,000 people, including nurses, were in membership (Ministry of Labour, 1938, p.172).

By 1939, nursing had come to provide training and employment for large numbers of women drawn from a range of social backgrounds.(83)

Training as a hospital nurse offered a basic 'womanly' qualification promising a secure if low-paid career in the hospital sector to those who kept their health or providing a springboard to other ventures. Unlike work as an established civil servant or teaching in the maintained sector, nursing offered no compulsory pension scheme and was better regarded by some for its potential marriage prospects than for its pensions.(84)

Local government

Women made a comparatively late entry to local government service. Before World War I a few women 'officers' had been appointed (mainly as sanitary inspectors) and there were midwives and health visitors. However, 'they had made no incursion into administrative and little into clerical jobs' (Spoor, 1967, p.465).(85) NALGO complained bitterly when large numbers of female clerks and typists (paid at 60% of the male rate) were appointed (ibid., p.27)(86) during the first World War. Women officers represented 16% of union membership in 1921. About half were clerks and typists, a third were nursing personnel and the rest were library assistants, sanitary inspectors and doctors.

There was no national pension scheme for local government officers until 1937 though about one-third of all officers were in schemes after the 1922 legislation. Local government administration offered surprisingly limited opportunities to women before the second World War, 'the vast mass of women workers - filled the lowest paid posts and also those posts with little or no authority. The majority of authorities appear to have regarded women as more or less temporary employees' (RCEP, 1946, Appendix III, evident on local government employment, p.188). The London County Council was an exceptional

employer in the opportunities it offered to women (ibid.). Thus, a woman local government officer in pensionable employment up to 1939 was fairly uncommon. And she had better be single. As a sponsor of a heavily acclaimed motion pointed out at the 1936 NALGO conference - if a married woman wanted to work outside her home there were a great many voluntary organisations where she could do just this, and not ccmpete for salaried jobs with men (Spoor, 1967, p.467).

Private sector pensions[87]

By the end of the nineteenth century, access to an employer's pension scheme was becoming recognised as the hallmark of a 'good' male white-collar job (Russell, 1982, p.179), typically, a 'clerical' or 'office' job. During the last three decades of the nineteenth century there was a tremendous expansion in this type of work which offered, at its apex, posts with City insurance firms, banks, legal firms or prestigious railway companies such as the G.W.R. Anderson, in his study of the social economy of late Victorian clerks makes clear that there was considerable competition for such jobs: indeed, the most elite clerkships, such as those in banking, were never advertised (Anderson, 1977, pp.114-115).

Clerical work opened up white-collar office jobs to women as well as men from the 1870s (Holcombe, 1973; Silverstone, 1976).[88] Whereas in the 1851 Census only 15 female commercial clerks were enumerated and 274 in 1861 (Silverstone, 1976, p.101), by 1901 there were 55,784 females employed as 'commercial and business clerks', which number had more than doubled by 1911 (ibid., p.107) to 117,057 (Holcombe, 1973, Table 4c, p.211). However, even by 1911, comparatively few women had got a foothold in the prestigious areas of banking, insurance

and railway employment, where able clerks could hope to be promoted to management and where occupational pensions were well established. There were 476 women bank clerks to 39,903 male clerks, 4,031 women insurance clerks to 41,866 men, and 1,120 women railway clerks to 84,802 men. Of law clerks, a mere 2,159 were female as against 34,106 men. The vast majority of women clerks were in the 'commercial or business' category, with 117,057 women as against 360,478 men (ibid.).

Anderson (1977, pp.113-116) shows that while, from the 1870s, 'clerking' was the white-collar job 'par excellence' for men, there was a very wide gap between the 'top jobs' in banking, insurance and prestigious commercial firms and those of lower status. While clerical work expanded as an occupation, competition for jobs became keener and by the end of the century male clerks were increasingly becoming marginalised due to economic depression, technological and institutional changes and more limited prospects of promotion or opportunities to become entrepreneurial.

The new women clerks experienced similar variations in job status. Holcombe (1973, p.150) observes that although by the turn of the century a 'female clerk' was sometimes well-educated and well-paid by the standards of the day, many were ill-qualified and/or badly paid. Male clerks had traditionally considered themselves to be badly paid and resented the possibility of being 'undercut' by women. When women clerks first appeared with shorthand skills, male clerks sought to acquire those skills, but when these 'women's jobs' were seen to be leading nowhere, men ceased to seek them (Anderson, 1977, p.127).[89] Indeed, there appears to have been considerable occupational segregation based on gender (Maggs, 1983, p.49). The prototype shorthand/typist was a young woman.

Maggs comments that clerical and commercial office work offered women employment which was relatively easy and light, respectable and genteel (ibid., p.53). Middle-class men employed other middle-class men's daughters in white collar jobs (ibid., p.51). There seems no doubt that female office workers proved to be, in general, highly acceptable employees, valued on familiar grounds - competence, cheapness, docility, disinclination towards unionisation and lack of ambition. Futhermore, 'Within the business and commercial sector, the marriage bar - was an informal but extensive practice.' This practice further depressed the pay and status of women workers, who were considered easy to replace and were, by reason of their short 'shelf-life', given little training and few opportunities for advancement (Maggs, 1983, pp.50-51; Holcombe, 1973, pp.148-152).(90)

It seems fair to conclude that few of the women employed in clerical work in the private sector before World War I were likely to have been members of formal occupational pension schemes, despite this being an occupational sector where employers' pensions were well established. Not only were women under-represented in the more elite clerical occupations, but they tended to be segregated into specifically female types of clerical work. As previously shown, the attraction of female clerical labour in the Civil Service lay in its cheapness and vulnerability to strategies designed to ensure a rapid turn-over of female staff of 'marriageable age'. Maggs (1983, p.51) argues that for 'career women', office work before the first World War did offer a degree of job security with the possibility of long service bringing access to a supervisory post. Certainly, it was within the power of employers to offer an ex-gratia pension to a long-serving female employee and on available evidence it may be concluded that such pensions were

given, on an unknown scale. It seems likely that employers found 'ex-gratia' pensions a preferred alternative to including women in a formal occupational scheme, since informal provision could be tailored to individual circumstances.

Before the first World War a minority of 'progressive' industrial firms made pension arrangements for women, including manual workers. Such provision was characteristic of the more 'paternalist' concerns. Rowntrees had a pension scheme to which the employer added up to 60 shillings for every 20 shillings paid by a woman employee.(91) In 1911, the Bourneville 'Women's Savings and Pension Fund' was set up, as an option: contributions could be withdrawn by women on marriage (Russell, 1982, pp.172 and 173). Russell (p.168) documents Courtaulds as in 1913 discontinuing a pension of 2/6d per week to a woman employee when the firm discovered that she was already getting the state old age pension. In this case the occupational pension appears to have sprung a 'poverty trap': this may well have discouraged firms from awarding pensions to low paid women manual workers.

After the first World War, as discussed in Chapter 1, there was a considerable growth of occupational pension provision. While the extent of this is not documented, it is known that by 1936, an estimated 1,617,000 private sector employees were covered by such schemes, including 335,056 women, or 20% of the total. 6,544 employers were shown to have voluntarily adopted schemes when the first government-sponsored survey results were published (Ministry of Labour, 1938, p.172). The survey covered private sector pensions only, dividing the membership into two groups - 'Administrative, clerical, sales, etc. staff' (i.e. white-collar workers), and manual workers.

96% of all employees (96% of men and 94% of women) were members

of schemes run by a minority of employers (2,580) who operated their own pension provision themselves, either directly or through insurance companies. This arrangement was typical for the 'large' employers and others. A majority of employers (4,144) were responsible for the remaining 4% of employees participating in 37 pension schemes which were 'group' schemes, such as F.S.S.U. and the nurses' federated scheme.

Nearly 5,000 employers limited their provision to white-collar workers, while 1,600 had schemes which covered manual workers. Since the latter were, numerically, the larger group in the case of both male and female members, it can be concluded that it was the large firms who catered for manual workers, including women, as suggested by Jones (1983). However (see below) some female clerical workers were probably enumerated under the 'manual' category (ibid.).

Large numbers of women had taken up clerical work in the first World War (Braybon, 1981, pp.45, 64 and 216). The 1921 Census recorded 420,379 women as clerks and typists in the private sector: in the 1931 Census 565,055 women clerks and typists in both public and private sectors were enumerated.[92] The 1936 survey gives no details on occupation by gender, but it may be concluded from the figures on broad occupational classification that a considerable proportion of persons in schemes were clerical workers: in the 'administrative' category, 25% were employees in banking, insurance and finance. The proportion in 'sales' from this category would appear to have been smaller.

Owen (1935, p.84) found that pension schemes for salaried or waged workers were frequently gender specific, with women typically being assigned to separate pension or 'savings' schemes:

> 'The chief difficulties are that the majority of of women have no need for retirement pensions, while those who do not marry usually retire earlier and live longer than male employees. Where women are included in pension arrangements it is usual for them to receive a lump sum on their marriage, corresponding to their contributions, accrued interest, and, in some cases, the firm's contributions as well.'

In his details of 'typical' schemes, Owen cites Rowntrees which paid pensions to women at 55, with optional retirement on a lower pension from 50-55 (provided that they had not improperly disclosed the secret recipes) while Oxo placed its female clerical workers in the same pension schemes as 'operatives', calling it the 'Manual Workers' and Female Clerical Workers' Scheme' (ibid., pp.89-91). Women's retirement age was 55 and men's 65. The maximum pension for a woman was 17/6d per week and 22/6d per week for a man. The Manchester Electric Power Company had one pension scheme, inaugurated in 1930, which permitted women staff who left to be married to be given 'a return of all their contributions to which the company will add 5% compound interest by way of marriage dowry' (ibid., p.94). The 1936 survey showed that while the minimum age from entry to occupational pension scheme membership was, typically, 18-21, 'Occasionally a higher age is fixed for female employees' (Ministry of Labour, 1938, p.172).

Schemes usually specified a 'normal' (i.e. permitted) retirement age for members. Women were commonly allowed to retire at a much earlier age than men.

Table 1:

Normal retirement ages: private occupational pension schemes 1936: G B.

	Admin., clerical, sales, etc, staffs		Manual wage earners		All classes
	Men	Women	Men	Women	
Numbers on whom information given	592,581 %	153,349 %	529,283 %	143,114 %	1,418,327 %
Proportions whose 'normal' pension ages as shown					
55 or under	0.4	37.2	0.3	14.2	5.7
55-60	2.9	2.4	0.3	4.1	2.0
60	19.6	18.5	7.9	24.2	15.6
60-65	23.3	8.2	5.5	0.9	12.8
65	52.4	33.2	83.2	47.4	61.3
Over 65	1.4	0.5	2.8	9.2	2.6

Source: Ministry of Employment (1938), Table, p.174.

Thus 37% of the staff women were permitted to retire at the age of 55 or under, but only 14% of the 'manual' women. About 40% of individual employers appear to have had a compulsory retirement age.

Table 2:

Compulsory retirement ages: private occupational pension schemes 1936: G B.

	Admin., clerical sales, etc, staffs		Manual wage earners		All classes
	Men	Women	Men	Women	
Numbers for whom retirement at a specified age is compulsory	367,288 %	82,453 %	277,863 %	54,296 %	781,900 %
Age of compulsory retirement:					
Under 55	-	7.4	-	-	0.8
55	0.2	22.3	-	10.1	3.2
Between 55-60	-	0.0	-	-	0.0
60	17.4	14.1	4.9	26.6	13.3
Between 60-65	0.3	0.0	0.4	0.7	0.3
65	79.3	54.5	90.0	57.5	79.0
Between 65-70	0.0	0.0	0.1	0.1	0.0
70	2.8	1.7	4.6	5.0	3.4
Over 70	0.0	-	-	-	0.0

Source: Ministry of Employment (1938), Table, p.174.

57% of all women 'staff' individual scheme members were subject to a compulsory age of retirement, and 40% of this number were required to retire at 55 or below. Only 10% of manual women were required to retire at 55: none below. 65 was the most common compulsory retirement age for women. Manual women were much less likely to be in membership of occupational pension schemes. Over 4½ million women were categorised as 'operatives' in the 1931 Census, whereas only 169,867 female manual

workers were recorded as members of schemes in the 1936 survey. 57% of these female manual workers were in schemes which required no employee contributions, as compared with 35% of the 'administrative' group (ibid., p.173). Membership of occupational pension schemes tended to be optional for those employees in post when the scheme started, but compulsory for new entrants though 'In a few schemes membership is compulsory for some classes of employees, but not for others,' (ibid., p.174). Such an arrangement would permit optional membership for women.

One justification for not setting up private occupational pension schemes, especially for lower paid employers, or for excluding categories of lower paid employees (including women) from such schemes, related to the existence of the state contributory pension scheme provided under the Widows', Orphans and Old Age Contributory Pensions Act 1925. Persons in public sector and railway employment were excepted from this scheme: otherwise all employees (including married women), excepting those with incomes above the earnings limit of £250 p.a. by 1937, were included (see Wilson and Mackay, 1941, Ch.X, esp. Appendix A). The great majority of women in 'insurable' employment would have been earning less than the 'ceiling' designed to exclude well-paid men and thereby required to contribute towards a 10 shilling pension, payable at 65.[93] Some women might in fact have been contributing to both state and occupational pension schemes if they were below the £5 per week limit and in employment providing a compulsory or optional pension scheme. However, as has been seen, it was an 'elite' of women who were in occupational pension schemes.

In 1935 the National Spinsters Pensions Association was founded with a main aim of obtaining contributory pensions for unmarried women

at the age of 55.[94] The activities of this association were given a fillip by legislation in 1937 which increased the categories of persons under the age of 55 who might become voluntary contributors to the state pension provision, but applied a far more restrictive income limit at entry to women than to men.[95] In 1938 a government committee of enquiry was set up to examine the position of women under the contributory insurance arrangements.[96]

The proceedings of the Le Quesne committee throw light on the position of women in both private and public sector occupational pension schemes in 1938.[97] Clearly such women constituted an 'elite' among female workers. Their professional and trade union associations were not favourable to the idea of contributory pensions at 55 (H.M. Treasury, 1938, pp.17 and 18). The Association of Women Clerks and Secretaries believed 'that the proposal would be used for undercutting wages' leading to competition between female workers over and under the age of 55. This association also believed that a contributory pension for unmarried women at the age of 55 'would lead to the dismissal of women who reached that age' and that this would reinforce the 'tendency at the present time to restrict women in offices to the more routine type of work and to refuse them opportunities for promotion to administrative posts'. 'It would have reactions also on the private pension schemes at present operated by firms for many salaried workers'. Retirement at 55 gave women a shorter period in which to qualify for a lesser pension (ibid., pp.53-54).

As seen from the 1936 Ministry of Employment survey employers did in fact commonly require women in private occupational pension schemes to retire at 55.[98] Women in public sector occupational schemes

were fearful that their age of retirement would be lowered from the then 60/65 range. In evidence, the Open Door Council stated that the municipality of Salford was attempting to get a Bill through Parliament which 'seeks to pension off its women employees at 55 instead of 65'. (Ibid., p.92).

However, the outbreak of World War II ensured that in due course employers, as in the first World War, sought to retain and recruit women workers, rather than dispense with them.

III A final perspective

Chapter I focussed on the development of occupational pension provision in Britain up to 1939. This chapter has related that development to the entry of women into white-collar employment and their access to employers' pension provision.

By the outbreak of World War II, teaching and the Civil Service (notably the Post Office) were the major public sector occupations which had come to offer secure, pensionable employment prospects for women as well as men. Neither were 'women's' careers, though elementary school teaching became feminised during the period in question. By 1939, women in these occupations were declared to be receiving the 'same' pensions as men.(99) However, these 'same' pensions when ultimately received, typically reflected the low pay(100) and/or lack of promotion which characterised a female 'career' in public sector employment, including male-dominated local government service and the largely female public nursing sector. Furthermore, to qualify for 'the same' pension a woman was required to remain single. If she did this, she shared with her male colleagues one great advantage of public sector

occupational pension provision - an employee remained in the appropriate pension scheme on moving to a new job within the same service.

The private sector employee normally lost his or her pension rights on moving to a new job, a particular hazard during a period of high unemployment. Of Holcombe's five major occupations for 'white collar' women, nursing in the prestigious voluntary hospital sector offered membership of a group scheme which permitted transfer between jobs without loss of pension. Women in the retail trades appear to have been badly provided for in respect of employers' pensions. It was the female administrative, clerical or secretarial worker who was likely to be at risk to loss of pension rights on a change of job, though due to the 'marriage bar' this outcome was potentially serious only if she remained single. 'Office work' for women was also characterised by that low and/or unequal pay which made female labour attractive to the cost-conscious employer. The 'best' jobs tended to be closed to women, as were some pension schemes. The private employer could and did put female employees into women's pension schemes which commonly doubled as 'savings' or 'marriage gratuity' schemes as an added incentive to female membership. Conversely an employer could offer 'ex gratia' pensions to that small proportion of women who became long-service employees. From 1925, the employer could use the existence of the state contributory pension scheme to validate the exclusion of female staff from private sector pension provision.

In order to qualify for an occupational pension which bore a reasonable relationship to earnings, women needed (as did men) to complete a lengthy period of service in paid employment. This became particularly problematic at a time of high unemployment. In addition, single

women who, typically, were designated as unpaid workers in the home, were 'target' carers who, in middle age, could be expected to give up paid work if necessary, to care for an elderly parent, or 'housekeep' for a widowed brother.(101) Such a break in or cessation of employment could prejudice occupational pension entitlement. The obligations of kinship, even when they did not involve giving up paid work, could adversely affect a woman's ability to save or insure: single women were also 'targeted' to give financial help to elderly parents or pay for the education of siblings.

Occupational pension provision was developed initially to serve the interests of a state which wished its paid male servants to be both incorrupt and efficient. Such provision was expanded by public and private sectors in the interests of employers who wanted an 'efficient' workforce to which 'good' employees could be attracted and retained as a contented pool of labour from which 'poor' (i.e. enfeebled/elderly) employees could be discharged. The target for these practices was the white collar male, perhaps trained on the job at the employer's considerable investment of time and money.(102)

Once women entered white collar occupations, the rationale for occupational pension provision began to be turned on its head. Whereas an employer's pension scheme was meant to produce a prototype male employee who would be loyal to the same employer over a lengthy, uninterrupted working life, for women the same provision was subverted to help produce a prototype employee who would leave after a relatively short period of employment, helped on her way by a 'marriage gratuity'. Women were valued for their 'substitutability'. Because they left their low status, 'ghetto' jobs, and were indeed required to leave

them on marriage, (which effectively removed them from the labour market) women were an asset from the pension point of view. They did not draw pensions, or certainly not in full: their pensions cost less. Furthermore, if they did, as white collar workers, stay single and remain with the employer, an occupational pension could be a vehicle for compulsory retirement from the workforce as early as ten years or more ahead of the men - in the interests of efficiency!

Occupational pension provision as developed up to the second World War served to reinforce a sexual division of labour (which required married women not to engage in paid work) by introducing arrangements whereby men who, typically predeceased their wives, were enabled to 'provide' for their widows. However, by the inter-war period, and probably because of the first World War, such single 'white collar' women as did stay in continuous employment were more likely, especially by the mid-thirties, to have access to a formal occupational pension scheme. They had access, and were treated, as 'honorary men'. Only in the unusual case of teachers who had married was any concession made to the considerable domestic responsibilities borne by most women.

With the coming of the 1939-45 war, the situation of women in the labour force was once more up-ended by the demands of a war-time economy. During this period, also, the foundations were laid for a completely new system of statutory pension provision which was, eventually, to underpin an expanding post-war occupational pension sector. How such occupational provision has developed up to the present time is the subject of the next chapter.

Chapter 2: Appendix on 'surplus' women

The reasons for the increasing number of single women in Britain in the second half of the nineteenth century are commonly attributed to the greater survival rate among female babies and to male emigration. The full explanation would appear to be more complicated (see Johansson (1977), pp.163-81). Branca (1975, p.10) argues that urban middle class women had a better chance of marrying than working class and rural women. Holcombe (1973, pp.10-12) maintains, conversely, that the disproportion in the sex ratio was greater among the middle than the working classes. She also notes 'contemporary alarm' at the growing disinclination of middle class men to marry at all and at their tendency to postpone marriage until late in life. As W.R. Greg commented in 1862,

> 'thousands of men find it perfectly feasible to combine all the freedom, luxury and self-indulgence of a bachelor's career with the pleasures of female society and the enjoyments they seek for these' (Cominas, 1963, pp.233-34).

This theme of 'redundant' or 'surplus' women was current throughout the second half of the nineteenth century (see Deacon and Hill, 1972). Kanner (1977) lists various writings which discuss the 'surplus of women' and 'the ramifications of having a large single female population seeking gainful employment and financial independence'. By the end of the nineteenth century a well organised movement had been established to promote the education and training of girls (see Dyhouse, 1981) which, as a byproduct, enabled single women to become more financially independent. To the extent that this development was a response to the 'problem' of surplus women, it was a double edged weapon, since

academic and, especially, higher education for women was commonly viewed as a contaminating and defeminising influence, likely to render its recipients less marriageable (see Delamont, 1978; Gorham, 1982). Emigration was a popular solution to the 'problem' (Hammerton, 1977). It should be noted that W.R. Greg excluded all female domestic servants from any taint of 'redundancy' on the grounds that:

> 'they do not follow an obligatory independent and therefore for their sex an unnatural career .... In a word, they fulfil both essentials of a woman's being: THEY ARE SUPPORTED BY AND THEY MINISTER TO men.' (Hollis, 1979, p.12)(103)

Deacon and Hill (1972, p.100) pinpoint the 'enormous impetus to the early growth of the social service and nursing professions in the mid-nineteenth century' which was provided by the existence of 'surplus' women. Notions of such single women as 'redundant' and as 'failures' are in evidence throughout the entire period covering the development of occupational pension provision to 1939. Young, single 'white collar' working women were a commonplace of the inter-war period, defined (sometimes inaccurately) as 'transients' whose main goal was marriage in a society reaching less demographic imbalance between young men and women (Beauman, 1983, pp.82-83).

The 'older' single woman of the inter-war period was of a different ilk to her Victorian or Edwardian predecessor, since her solitary state could be conceptualised not in terms of personal failure to 'achieve' marriage but as a legitimate sacrifice made in the cause of war. There is no doubt that these women felt themselves to be 'special. Much evidence for this is to be found in the Le Quesne Report (H.M. Treasury, 1939) and in the various issues of The Spinster, journal of the NSPA. It seems highly likely that the very active local groups of 'insured' women members of the Association in the industrial

working towns, particularly in the north, would have included some of the fiancees and girlfriends of the men who were decimated in World War I as members of the various 'pals' brigades (see Brown, 1980, pp.34-37). These brigades were drawn from particular localities and included groups of men who worked for the same employer, as well as in the same occupation.

Although the Deputy Government Actuary argued to the Le Quesne Committee that there were no more 'surplus' women after the first World War than there had been at the turn of the century (H.M. Treasury, 1938, p.171), the 'spinsters' of the late 1930s thought otherwise. It seems probable that the plight of these unmarried women - some of whom remained unmarried by the sheer chance of whether their fiances got leave or not, made employers more conscious of single women's need for a pension in old age. Likewise, the sympathetic employer might well have been influenced in deciding to offer women membership of occupational pension schemes (or an ex gratia pension) by virtue of the fact that such women were seen to be single for 'good reason' and thus entitled to be treated as 'honorary men'.

Part II: References

Introduction

1. Tape, Oral History Archive, Essex University: subject described her mother's 'main reason for encouraging her to become an elementary teacher ---'.

2. Former nurse questioned by C Maggs about membership of Royal Nurses Pension Fund.

3. Never-married.

Chapter I: The Development of Occupational Superannuation Schemes

4. Raphael, M. (1957), The Origins of Public Superannuation Schemes in England 1684-1859, unpublished Ph.D. thesis, University of London, cited Titmuss (1976, pp.201-02).

5. Namier, Sir L. (1957), The Structure of Politics at the Accession of George III, London, Macmillan, second edition, cited Rhodes (1965, pp.14-15).

6. This interpretation of developments in pension provision is derived from Raphael (1957): see ref.4.

7. Ellis, K. (1958), The Post Office in the Eighteenth Century, Durham, University of Durham Publications, p.22, cited Rhodes (1965, p.16).

8. Third Report from the Committee on the Public Expenditure (1808), Parliamentary Paper, cited Rhodes (1965, p.17).

9. The University of Lancaster possesses a copy of Le Livre Rouge (1810) listing public pensions then in payment, along with details of their recipients. The anonymous author of this 'new and extraordinary RED BOOK' - a critic of the system, provides many amusing illustrations of its operation. As well as pensions, 'Sinecures and Offices executed wholly of chiefly by Deputy' were available, such as 'Controller of the Pipe' (£206), 'Remembrancer of the First Fruits' (£660), and 'Surveyor of Green Wax' (£260).

10. Act of 1810 (50 Geo.III. c117).

11. Act of 1822 (3 Geo. IV. c113).

12. Act of 1834 (5 Geo. IV. c104).

13. Superannuation Act 1834 (4 and 5 Will. IV. c24).

14. Committee of the Council on Education, Minute of August 6th 1851, cited Rhodes (1965, p.24).

15. Report of the Select Committee on the Elementary Education (Teachers' Superannuation) (1892), H of C, May 27th 1892.

16. From 1846 a 'certificated' teacher was one who had gained a government certificate 'either by internal examination at the end of the two year training college course or else by passing the external examination for practising teachers' (Tropp, 1977, p.19). In the 1870s conditions were somewhat relaxed to allow the granting of certificates without examination, a move resisted by 'traditionally' certificated teachers (ibid., p.14). In addition, by 1898, an increasing number of teachers had obtained their certificates by private study (ibid., p.157).

17. About a quarter of certificated teachers (17,660) did not choose to become members of the new scheme (Gosden, 1972, p.135). Rejection gave an alternative to compulsory retirement at 65 (and an obligation to contribute to the Annuity Fund) which allowed teachers to 'remain in employment till death, or till their employers dispensed with their services' (Barker, 1926, cited in Gosden, 1972, p.151).

18. The calculations presumed 2,963 male deaths over the first seven year period but in fact there were only 1,071. The women presumably lived up to actuarial expectations!

19. NUT Annual Report (1903), p.ixxvii, cited Gosden, ibid.

20. The Departmental Committee on the Superannuation of Persons Employed by Local Authorities in England and Wales (the Norman Committee) had issued its report in 1919 (Cmnd.329).

21. Local Government Superannuation Act 1937. A Royal Commission (Onslow) produced three reports in the 1920s, including one on staffing. A Departmental Committee (Selby-Biggs) reported in favour of compulsory superannuation for salaried officers only, in 1927. A Committee of Enquiry (Hadow) on staffing reported in 1934. See Poole (1978, pp.18-19); Rhodes (1965, p.57).

22. The Business History Unit of the London School of Economics is engaged on this task, using primary sources. Personal communication, Professor Leslie Hannah.

23. Booth, C (1899), Old Age Pensions and the Aged Poor, quoted Pilch and Wood (1979, p.4).

24. Owen (1935, p.82) states that there was very little statistical evidence on the occupational pensions movement and that firms regarded their schemes as highly confidential. He examined over one hundred schemes and collected information from 'experienced individuals', but was aware that this did not constitute a representative sample of employers and that he was relying on information which individuals chose to give on schemes.

25. In terms of the eventual involvement of the state in regulating private occupational pension provision, it is interesting to note that the Superannuation and other Trust Funds (Validation) Act required that superannuation fund trustees should have a quinquennial actuarial investigation and report made on the financial condition of the fund (Owen, 1935, p.83).

26. Including retired clergy (members of a notably long-lived occupation) whose unfortunate successors were obliged to pay a considerable portion of their stipends towards the maintenance of their predecessors, as in pre-reformed Civil Service days. Lord William Cecil, a 'younger son' appointed Bishop of Exeter in 1916, was required to make over one-third of his £4,200 stipend to his ailing predecessor. 'As Bishop Archibald Robertson survived until 1931, the Church of England had made no bad bargain on his behalf.' (Rose, 1975, p.120)

27. Commission to inquire into the Operation of the Superannuation Act.

28. Northcote-Trevelyan Report on the Organisation of the Civil Service (1855), quoted by Rhodes (1965, p.19) from Young, G.M. and Handcock, W.D. (ed.), English Historical Documents, London, Eyre and Spottiswood, Vol.XII(I), part vii, no.173, 1957, p568.

29. Select Committee on Elementary Schools (Certificated Teachers) (1872), H of C 344.

30. In evidence to the Select Committee of 1892 the President of the NUT stated his belief that a statutory pension scheme would encourage the Education Department to limit the numbers of teachers in training so as 'not to manufacture any more teachers than are absolutely necessary because these teachers will have to be pensioned and partly subsidised' (Gosden, 1972, pp.134-35).

31. Much of this evidence was contained in the various works of Charles Booth and also in the Report of the Royal Commission on the Aged Poor (1895). The subject was much discussed in contemporary newspapers, journals and in the proceedings of learned societies during the 1890s and 1900s. See Gilbert (1966, Ch.4).

32. Mackay, T. 1892, Insurance and Saving: a Report on the Existing Opportunities for Working Class Thrift, London, C.O.S./Sonnenschien, quoted by Mowat (1961, p.143).

33. See Gilbert (1966, Ch.4) for detail on these campaigns.

34. The nature of such institutions is well described by Crowther, (1983, Chs.3 and 4).

35. Claimants had to be British subjects, long-term residents of the U.K., not having been recently imprisoned, not lunatics, not disqualified as parliamentary electors (that is, not having been in receipt of any but 'medical' poor relief) and 'habitually employed in the trade of his or her choice'. The full pension

of 5 shillings weekly was payable on an income of £21 p.a. or less with a sliding scale of reduced payments to a ceiling of £31 10s. A married couple could each receive a potential maximum of 5 shillings. Russell (1982, pp.168-69) alludes to the practice of Courtauld's discontinuing the payment of occupational pensions to retired employees who, at 70, would be entitled to the Old Age Pension in the absence of an employer's ex gratia pension.

36. See Wilson and Mackay (1941), Part II, for discussion of the 1925 Act.

Chapter 2: Women's Paid Employment and Access to Occupational Pension Scheme Provision

37. For contemporary material on the position of women in the mid-nineteenth century see Hollis, ed. (1979, pp.3-23). For insights into changes in the position of women in the nineteenth century see Vincinus, ed. (1977).

38. For working class single women, domestic service was a usual, though increasingly less favoured, occupation from mid-century. The number of households able to afford servants rose sharply. Governesses did not consider themselves as 'domestic servants'. Attempts were made from the 1870s to recruit 'ladies' into domestic service, but were not successful. Ladies' maids were sometimes drawn from middle class, or more usually, artisan backgrounds. They needed to be literate and were often trained milliners or dressmakers. Thus there were strata of domestic service into which impoverished middle and artisan class girls could 'sink'. See Horn (1975).

39. Telling contemporary comment from the diaries of the impecunious Lord Shaftesbury who was worrying in the 1860s about the futures of two much-loved adult unmarried daughters, recorded as being able to look forward only to 'a poor, solitary and dependent' spinsterhood. Shaftesbury's biographer notes their prospects as bleak. 'An unmarried working class girl could earn some sort of living as a seamstress, a factory worker or as a domestic servant: a girl of the professional classes could go out as a governess. None of these alternatives were open to the impecunious daughters of an earl...' The girls duly solved the problem by late marriage to an Irish peer in one case and early death in the other. See Battiscombe (1974, p.280).

40. Quoted in Hollis (1979, pp.10-11).

41. The writer attended Howell's School, Llandaff, interesting in this context. Founded 1859, it aimed to educate middle class orphans, among others. The 'orphans' qualified for a dowry of £100 on marriage. Their good education was designed to fit them for work as governesses or teachers 'failing' marriage. Some 'spinsters' later asked for their dowries, in order to start schools: some actually got the money! See McCann, J.E. (1972, Ch.3 and Appendix I).

42. Webb, S and B (1910), English Poor Law Policy, cited Thane (1978d), p.3.

43. Holcombe (1973), Appendix,has useful statistics and text on 'the Employment of Teachers, Nurses, Shop Assistants, Clerks and Civil Servants in England and Wales 1861-1911'. Maggs (1983, pp.38-62) provides a commentary on 'Women's "white-blouse" work 1881-1914'. This thesis uses 'white-collar' to cover both blouses and shirts.

44. Blackstone, W (1775), Commentaries on the Laws of England, Book 1, 7th ed. Oxford, Clarendon Press, p.442, quoted by O'Donovan (1979) in Burman (ed.), p.136.

45. 1870 recorded the first victory in a campaign (begun 1855) to reform the law regarding married women's property (Strachey, 1978, p.273). It was not until 1882 that married women gained control over property acquired before or after marriage (see Holcombe (1977) in Vicinus, ed., pp.3-28).

46. Married women did earn money by 'homework', i.e. by writing novels (a middle-class strategy) or taking in lodgers, washing or 'outwork' (a working-class strategy). See Braybon (1981, Ch. 1).

47. Strachey, O. (1934), 'Married Women and Work', Contemporary Review, CXLV, p.335, quoted Ferguson (1963, p.335). For discussion of the 'marriage bar' see Lewis (1983); Maggs (1983, pp.50-51 and 135).

48. See also Marwick (1967, Ch.3, pp.96-98), in which similar figures are acknowledged as being derived from the Report of the Committee on Women in Industry (1919), Cmd.135; Braybon (1981) provides useful background information while focussing specifically on women in industry during World War I.

49. The Sex Disqualification Removal Act was a much attentuated version of legislation proposed in the defeated Emancipation Bill 1919. The Act opened the legal profession and membership of certain professional bodies to women and made them liable for jury service as well as eligible to be magistrates. It was not a sex discrimination act as had been originally intended. See Strachey (1978, Ch.XX, esp. pp.374-377).

50. Examination of Table 5, pp.39-62 of the Census of England and Wales 1931, Classification of occupations (1934), London, HMSO, showed 195 women 'lawyers', 119 'accountants' and 205 'engineers'.

51. Persons declared as 'out of work' were also included in occupational categories, (ibid.).

52. For discussion of the legal position of married women see Finer and McGregor (1974).

53. The Census (1931), Classification of Occupations (1934) (ibid.), shows 409,781 young women 18-29 as of 'no gainful occupation'. This represented a 'daughter at home' or of 'independent means' though in some cases this may have been a euphemism for 'unemployed'.

54. Three quarters of a million men from the U.K. had been killed and one and a half million were left permanently weakened by wounds or the effects of gas (Taylor, 1965, p.20). See also Winter (1977, Table 4, p.451).

55. The N S P A founded 1935 to campaign for improvements in the position of single women in the state contributory pension scheme.

56. For example, Miss Emily Baldwin, first headmistress of Howell's School, Llandaff, retired after 13 years of service, in 1872, with a total 'grace-and-favour' pension of £30 p.a. (Her junior school mistresses were then earning £40 p.a. plus board and lodging). For years afterwards she petitioned the Drapers' Company for additional financial provision and died, impoverished, in 1880. She was a 'gentlewoman' who turned to teaching after her father, a publisher, lost his money. Her three brothers pre-deceased her. See McCann (1972, pp.151-58).

57. The Governesses Benevolent Fund (1841) gave annuities and afforded 'assistance privately and delicately to ladies in temporary distress' (Holcombe, 1973, p.14). Governesses and nurses were an especial object of charitable benevolence, including provision of residential accommodation, i.e. 'indoor relief'. 'Distressed gentlewomen' usually seem to have been categorised as 'deserving' according to the ideologies of Victorian philanthropy, and charities were developed to help them. Owen (1965, p.174) cites the Home for Gentlewomen (in reduced circumstances) and the Ladies Institution for Females of Weak Intellect!

58. See Thane (1978d, pp.34-35) for comments on the exclusion of women from those mutual savings institutions through which men saved against sickness and old age. Women found it difficult to afford subscriptions to Friendly Societies and had less access than men to trade union benefits.

59. See Roebuck and Slaughter (1979) for a discussion of the way in which policy makers of the late 19th century defined financial provision for old age as an issue about elderly men, despite clear evidence on the extent of female poverty in old age. These authors (p.108) discuss 'survival employment among the elderly poor'.

60. Mackay and Wilson (1941, p.104) show that over 4½ million women and 10½ million men were brought in. By 1938, nearly 5½ million women were paying contributions, and just over 11 million men (ibid., p.141).

61. For the history of women in the Civil Service see Martindale (1939) and Holcombe (1973), Ch.VII. For the Post Office see Clinton (1984). Maggs (1983, pp.49-51) cites Davin, A (1973), 'Telegraphists and clerks', Bulletin for the Society for the Study of Labour History, No.26, Spring.

62. Some were products of an organised campaign to get women into occupations other than teaching and domestic service (Martindale, 1939, pp.16-17).

63. It does appear that the young women were literate and numerate. Since good secondary schools for girls were rare, this must have been achieved by governesses, home teaching or self-education. See ref.65 below.

64. Evidence from a senior Post Office official in a Report on the Re-organization of the Telegraph System in the United Kingdom 1871; see Martindale (1939, p.18). In the event, women postal workers developed a standing grievance with regard to their low pay (Clinton, 1984, p.56).

65. Male civil servants strenuously resisted this move. The successful applicants (at 14 shillings a week) were all 'gentlewomen of limited means' such as the daughters of service officers, government servants, and of professional and literary men. They had to be nominated for their positions, pass a Civil Service qualifying examination and serve six months' probation before becoming 'established', Holcombe (1973, p.166); Strachey (1978, pp.228-29); Martindale (1939, Ch.1).

66. Royal Commission on the Civil Service 1912-15 (MacDonnell) and the Select Committee on the Post Office (Holt), see Holcombe (1973, p.184).

67. The number of women employed in central government departments was not large by 1914. Martindale (1939, pp.65 and 71-72) states that 3,000 women clerks were employed by the General Post Office and 500 elsewhere - not all were established: the Public Trustee's Office had 70 unestablished women clerks. There were 600 Civil Service typists and about 200 senior women in the inspectorates and other special posts. The vast majority of women civil servants worked, nationwide, for the Post Office. See Martindale pp.75-96 for a perspective on women in the Civil Service during and immediately after World War I. See Clinton (1984, pp.191-196) for detail on the Post Office.

68. Evidence submitted to the Royal Commission on Equal Pay 1944-46 (Appendix IV, S120, p.46) shows that 8 women who had passed into the administrative grade by competitive entry from 1925 were retained in an unestablished capacity (5 of whom later resigned), and that the 2 who were permitted to remain on the establishment as married women were, incredibly, 'obliged to wait for 4 and 4½ years before the necessary permission to marry was given, a condition of affairs which is calculated to discourage applications for retention'.

69. For the history of women in teaching see Holcombe (1973) Ch.2, Partington (1976), Widdowson (1983). Widdowson chronicles the entry of women to teacher training colleges 1850-1914 and the 'feminisation' of elementary school teachers as a profession in relation to female social mobility via education.

70. The Girls' Public Day School Company was founded in 1872 and was part of a wider growth of mainly middle-class girls' public and private schools (Strachey 1978, pp.246-48). Large numbers of Welsh girls began to enter teachers' training with the establishment of the Welsh Intermediate Schools system in the early 1890's. Some English school boards provided 'higher grade' schools and the pupil teacher system enabled some girls to proceed to college (Tropp 1977, p.22).

71. Tropp (pp.157-58) states that women teachers are said to have played little part in this campaigning and to have been inactive in trade unions until the 1900's. However, given the now acknowledged 'invisibility' of women in historical accounts it may be that women's activities were not considered worth reporting. See Lewis (1981).

72. Barker (1926, p.18) states that women were to contribute £2 per year and on a notional salary of £76 p.a. would, if they taught from 22-65, get about £40 p.a. in pension. Widdowson (1983, p.67) documents that mothers of teacher daughters appreciated the security of tenure and prospective pension offered by elementary school teaching as a career.

73. Figures derived from London County Council records (Widdowson, 1983, ref.45, p.83). Holcombe (1973, p.40) states that some authorities dismissed teachers on knowledge of an intention to marry.

74. This argument derived from views which popularly defined single women as persons who lived in an 'un-natural' state. Not only did they lack husbands, but, by definition, children, since sexual activity by women outside marriage, and, especially, motherhood outside marriage, carried severe social sanctions including dismissal from paid employment. Partington (1976, p.33) comments on extra-marital cohabitation in London as a source of anxiety lest it be discovered and as being in the provinces, 'an even more perilous undertaking'.

75. No reference has been found to the position of women teachers who were divorced. Since divorce conferred a 'stigmatised' status, such women may have presented themselves as or have been treated as widows. Other women whose marriages had broken down did not necessarily divorce, even if they were the 'innocent' party (see Ch.9) but on investigation might have been placed in the 'separated' category.

76. The writer's mother, a teacher 'sacked' on marriage in 1931 after seventeen years' service, withdrew her contributions and was pleasantly surprised at 60 to receive a miniscule 'teachers annuity' derived from notional employers' contributions to the non-existent teachers' pension fund. This pension was worth a few pounds initially: the final payment in 1977 was worth £46 p.a., thanks to inflation.

77. Rendel (1980) drew her statistics from study of the appropriate Commonwealth Universities' Yearbooks. No women held university posts at Oxford and Cambridge until after World War I: there were two women in such posts by 1921/22 and 30 by 1930/31. The U.S.S. supplied details on F.S.S.U. by personal communication.

78. For accounts of the history of nursing see Abel-Smith (1975), Davies, ed. (1980), Holcombe (1973, Ch.IV), Maggs (1983) and White (1978).

79. It can reasonably be assumed that a proportion of the middle and upper-class nurses had private incomes, allowances from their families and/or inherited money during this period, which may have set an unfortunate precedent.

80. Holcombe (1973, Ch.IV) states that the scheme was originally compulsory and that most nurses contracted out when an amendment allowed them to do so after only one year of the scheme's existence. On low pay, this facility must have been tempting. Holcombe comments that nursing was a mobile profession, few nurses expected to stay in the service and the pensionable age of 60 was considered far too high.

81. Evidence of this can be found in old volumes of The Lady.

82. H.M. Treasury (1939), Minutes of Evidence, Le Quesne Committee: witness Ivy Littlewood, hospital sister, p.45.

83. Abel-Smith (1975, p.159) states that in the 1930's, three quarters of entrants to voluntary hospitals and 29% to municipal hospitals had secondary education. In 1931, there were around 122,000 single women classified in the Census as nurses (ibid., p.294). Much concern was expressed about 'nurse-wastage' in the 1930's, during which time pay improved but remained low and living conditions continued to be restrictive. Shortly before World War II 'down-grading' occurred, to create a new category of 'state enrolled nurse' (ibid., p.159).

84. Even before World War I, as Maggs (1983, Ch.5, esp. pp.155-56) illustrates, hospitals were well established settings for popular works of romantic fiction. London teaching hospitals provided a particularly rich seam of potential doctor husbands for the nurses who trained in them.

85. Spoor (1967), p.465. Information in this section is from Ch.28, The Rights of Women, pp.465-79 and Ch.14, Pensions Saga, pp.147-75.

86. Not before time, perhaps. In 1898 Bernard Shaw had discovered a male clerk employed by St. Pancras Vestry who could neither read nor write, after which junior staff were made to pass an appropriate City and Guilds examination (ibid., p.27).

87. For discussion of women in clerical work see Holcombe (1973), Silverstone (1977) and Anderson (1977). Maggs (1983) discusses 'clerical and commercial work' as 'white-blouse' occupations attracting female labour from the same pool as nursing.

88. The Association for the Promotion of Employment for Women (1859) saw the potential for female employment using the new communication and office 'technology' and encouraged women to become telegraphers, telephonists, shorthand writers and typists (Silverstone, 1976, p.101).

89. The extent to which women 'undercut' male clerks is debated (Maggs, 1983, ref.35, p.59). Anderson (1977, p.127) believes that women were more likely to undercut each other by accepting low pay in a well-supplied labour market.

90. An elderly woman encountered in a train told the writer that when employed in a central London office in the 1930's, a colleague commuting from the outer suburbs had successfully concealed the fact that she was married from all but her closest friends for four years until she left to have a baby.

91. For men, units of 30 shillings were matched in this way.

92. Census of England and Wales 1931 (1934): Table G, Occupation of Males and Females at the Census of 1921 and 1931, pp.673-80.

93. In 1936 approximately 4,081,800 women were in insured employment (Department of Employment, 1971, Table 113, p.214).

94. The NSPA was founded as a non-political organisation in July 1935 by Miss Florence White of Bradford. Its purpose was 'to secure by constitutional means pensions on such terms as may be just for spinsters who have been or are contributors to National Health or Unemployment Insurance'. (Minutes of Evidence: Committee on Pensions for Unmarried Women (Le Quesne), 1938, p.1). In particular it campaigned for spinsters' pensions at 55 since all widows of insured men were eligible for pensions regardless of age, receiving them on average at 55½ years (H.M. Treasury, 1939, S52, p.24). By 1938 the Association had 125,000 members in 97 branches, mainly in industrial and urban areas. It published a monthly journal, The Spinster, 1938-56, in which its campaigns are documented, along with knitting patterns and 'suitable' fiction.

95. Widows', Orphans, and Old Age Contributory Pensions - Voluntary Contributions - Act, 1937. See A Wilson and Mackay (1941, Ch.XV, pp.172-87). Women could be voluntary contributors if not in 'insurable' employment or 'not gainfully occupied' provided that their total income did not exceed £250 per annum of which not more than £125 could be unearned. For men the figures were £400 and £200. From 1939, the maximum age of admission as a voluntary contributor was lowered to 40.

96. The Committee on Pensions for Unmarried Women (Chairman: C.T. Le Quesne) was appointed by a Treasury Minute of 13th April 1938 'to examine and report on the complaints which are made as to the position of unmarried women under the Contributory Pension Acts, and on the practical questions which would arise if the age at which Old Age Pensions under those Acts are payable to unmarried women was lowered'. The report was issued in 1939.

97. Le Quesne Committee: Minutes of Evidence, 16th, 17th, 29th and 30th June 1938. 9th and 10th November 1938. These minutes give a clear evidence of the existence of 'two nations' of women in paid work. Comparisons were drawn between women in occupational pension schemes who had received an extended education and entered the labour force in their early twenties, where they remained in better health than their working-class 'insured' sisters, such as the mill-girls of the industrial north who had been in employment since the age of 11.

98. Thane (1978b, p.236), comments that the Le Quesne committee could not decide whether the early age of compulsory retirement applied to many women 'was due to the earlier physical decline of women', which seemed inconsistent with their greater longevity, or to 'inexplicable employer discrimination against older women'. The Open Door Council, however, was convinced that such discrimination sprang from employers' requirements for 'an attractive and youthful appearance' on the part of female employees and this submission is borne out in evidence from persons connected with the retail trades where occupational pensions appear to have been uncommon. The Scottish Retail Drapers' ... Federation stated that 'A woman of 55 behind the counter is somewhat of a problem'. 'The great majority of firms, if there is reasonable excuse of dispensing with a woman getting to an older period of life, are very glad to have the opportunity'. (H.M. Treasury, 1938, pp.192-93).

99. They were 'the same' in that both the Civil Service and teachers' pension schemes had come to provide lump sums on retirement as well as pensions. The lump sum could be used if necessary to provide for dependants of any type as a 'post-retirement' death benefit. There were no widows' or dependants' pensions as such. (See Ch.8).

100. Pay was low partly because it was commonly around two-thirds of that of a comparable male employee. Campaigning for equal pay was carried out, unsuccessfully, between the wars, by teachers, civil servants and local government officers. However, school teachers' pay in the 1930's compared favourably with other professional occupations and seems to have been the most financially rewarding occupation for a woman. Lack of opportunities for promotion was a common grievance of public sector women - i.e. to the higher grades of Civil Service and to headships of mixed junior elementary schools. Public sector men also complained about low pay.

101. The 1931 census shows a total of 200,000 single women as 'not gainfully employed' in the age groups 45-59. Some of these would undoubtedly have been caring for elderly and dependent relatives, a usual responsibility for single women as the Le Quesne Report shows. It was not uncommon between the wars for one unmarried daughter to be financially supported to stay at home by another such daughter who was in a full-time job. Such financial responsibility could last for life.

102. This was particularly the case in the nineteenth century: such men in the industrial and commercial sectors might have knowledge of the employer's processes and practices of great potential value to a competitor.

103. Greg, W R (1862), 'Why are women redundant?' National Review, quoted Hollis (1979).

Part III

Women as Members of Occupational Pension Schemes

1939-83

'The story of the employer who restricted membership of his pension scheme to women measuring more than 42-40-42 is, however, almost certainly apocryphal'

(Pilch and Wood, 1964, p.28)

Part III

Women as Members of Occupational Pension Schemes 1939-83

Introduction

Part II traced the growth of formal occupational pension provision from its 19th century origins to the outbreak of the second World War, a period during which single women gained new employment opportunities in 'white-collar' occupations and, mainly in such occupations, gained limited access to employers' pension provision.

Part III addresses the expansion of occupational pension provision during a period of considerable demographic and social change, characterised by greatly increased female labour force participation. However, whereas the prototype white-collar or manual woman worker in a 'good' pre-war job was single, her post-war successor was, increasingly, a married woman who, if she had children, might well be working part-time. Such married women have brought a 'second income' into the household, long conceptualised as 'pin-money' and more recently, following high inflation, acknowledged as a 'secondary wage' which is integral to the finances of the marital household. The married woman, with children, has increasingly followed a 'bi-modal' career, involving a period of withdrawal from the labour market followed by further employment, often part-time, which is fitted around domestic responsibilities. The 'single' woman in the 35-50 age-range was, by the early 1980s, statistically speaking, most likely to be a 'divorcée'.

The period 1939-83 saw an enormous expansion in occupational pension provision. Developments regarding statutory retirement pensions encompassed a move from provision of a 'basic' pension derived from

flat-rate contributions to the addition of an earnings-related 'second-tier' pension, designed for the 'middle band' of wage-earners, not all of whom have access to employers' pensions. Successive governments shifted towards formal 'integration' of state and occupational pension provision, with legal regulation of the latter. Issues of access to employers' pension provision and preservation of benefits in the form of 'deferred earnings' from past employment increasingly moved into the public arena and on to the political agenda.

Not the least of these issues since the late 1960s has been female access to occupational scheme membership and 'equal treatment' within those schemes. Chapter 3 focusses on the growth of occupational pensions during a period when the 'target beneficiary' has continued to be the male employee with actual or potential 'family responsibilities' for a dependent wife and children who might need 'survivors' benefits' should their 'breadwinner' die. Outside the public sector it is the better-paid and/or white-collar male who has been targeted.

As Chapter 4 shows, female access to occupational pension benefits has continued to be more restricted. Not only do many women, especially if married, follow employment characterised by low pay and occupational segregation, - many, because they work part-time, are excluded from employers' pension schemes even in the public sector. It has continued to be more difficult for women to generate occupational pension benefits from their own deferred earnings. As will be seen this state of affairs is becoming increasingly questionable and is, indeed, being questioned.

Chapter 3

The Expansion of Occupational Pension Provision

I The 'two nations' : 1939-59

From the second World War, through lengthy economic 'austerity' to 1959, favourable tax concessions[1] and keen competition for labour were instrumental in encouraging employers to expand or inaugurate pension schemes. From 1948, the National Insurance scheme introduced 'basic' retirement pensions via flat-rate contributions. In the late 1950s, a major new initiative saw the introduction of a statutory 'second-tier' earnings-related pension scheme based on additional graduated NI contributions.

During World War II the 'excess profits tax' enabled employers to 'install non-contributory pension schemes for their employees at little or no cost to themselves' (Pilch and Wood, 1979, p.7). Already 'Top Hat' employers' pension schemes for senior employees could be devised so that highly taxed individuals could opt for larger pensions in preference to further salary, thus reducing tax liability during working age (ibid.).

The Finance Act 1947 'laid down limits on the amount and nature of pension scheme benefits by providing that an employee should be taxed on any contributions made on his behalf'... 'over a limit comparable to the provisions of statutory schemes such as the Civil Service' (ibid., pp.7-8). Pilch and Wood (1979) argued that this Act, introduced during the first post-war Labour administration, constituted a 'fascinating political paradox' in that it had the opposite effect from that intended

by the legislation. Far from 'curbing the provision of tax-free benefits under pension schemes' it was 'undoubtedly responsible for a tremendous explosion in the number of such arrangements'. Thus, employers set about extending occupational pension provision for their 'key employees' encouraged by new regulations still permitting 'quite substantial tax-free capital benefits to be paid in their retirement' (ibid., p.8). In addition, the Act excepted certain types of employers' pension schemes from its provision, including those for lower-paid staff, so that 'it was therefore possible to set up schemes under which the whole of the retirement benefits could emerge in tax-free form' (ibid.). Further tax advantages accrued via section 379 of the Income Tax Act 1952 affecting investment income of insurance companies (ibid., p.9).

Pilch and Wood argued that the professional and managerial classes were hard hit by high personal taxation after the war, especially the 'middle classes', as exemplified by the middle and senior ranges of salaried staff in industry (Pilch and Wood, 1960, p.25). These employees considered themselves the 'new poor'. Sympathetic management 'even if they could not afford to pay the office staff salaries commensurate with the earnings, based on overtime and piece rates of the works employees ... could at least offer a degree of security by funding in advance the pensions which, as the majority of them accepted, they had a moral liability to pay' (Pilch and Wood, 1960, p.25). Tax concessions on occupational pension provision were further optimised via the Finance Act 1956 which embodied limited legislative changes arising from the 1954 recommendations of a Treasury committee[2] appointed to review the general question of the treatment of occupational pension schemes for taxation purposes.

Meanwhile major changes had taken place in statutory retirement pension provision. The recommendations of the Beveridge Report[3] (1942) resulted in the eventual replacement of the pre-war contributory and non-contributory pension schemes by new provisions (under the National Insurance Act 1946) which form an important background to post-war developments in the occupational pensions sector.

The Beveridge Committee had been asked to undertake 'a comprehensive survey of existing schemes of social insurance and allied services and their inter-relationship' to 'be considered in due course by the Committee on Reconstruction Problems ...' (Beveridge, 1942, p.2). The committee did not address itself, other than incidentally, to the question of occupational pensions, which seem to have been viewed as a desirable 'minority' adjunct to statutory provision. Beveridge was concerned with the needs of that majority which had previously been dependent on the then-existing statutory provision, including supplementary pensions (Midland Bank Review, 1957, p.3).

The Report noted that superannuation provision was 'made for persons in particular occupations by the State, by local authorities and by many private employers' as well as by trade unions and friendly societies, but was doubtful if all such provision covered 'as much as one-tenth of the field' (Beveridge, 1942, S235, p.92). It was argued that the existence of such schemes 'called for no special action by the state' though there was need for the state to make 'its own development of compulsory insurance gradual, so as to give time for any necessary re-arrangements of the occupational and voluntary schemes' (ibid., S381, p.145). Employers' pension provision was a concept in line with the Beveridge principle of encouraging citizens to provide

for their financial needs in old age over and above subsistence level, via other forms of saving (S239, pp.92-93).

Beveridge foresaw an increasing proportion of elderly persons in the population from the mid-twentieth century (S234, pp.90-91) with highly differential economic and social consequences for the elderly individual (S235, pp.91-92).

> 'The problem for the future is how persons who are past work can be given a guarantee against want, in a form which gives the maximum of encouragement to voluntary saving for maintenance of standards above the subsistence minimum, and at the same time avoid spending money which is urgently needed elsewhere or money on a scale throwing an intolerable financial burden on the community.'
> (S238, p.92)

The solution proposed included a universal contributory retirement pension scheme based on insurance principles to cover four categories of contributor - the paid employee, the self-employed, the housewife and the non-employed.(4). All contributors except housewives were to pay a weekly flat-rate contribution, chargeable at a higher rate for men.(5) Despite Beveridge's argument for a lengthy 20 year transitional period before the scheme should become fully operative(6) (S241-243, pp.93-95) the National Insurance Act 1946 brought all but a minority of persons of working age within its scope when it became effective in 1948.(7)

By the early 1950s, the financial aspects of provision for old age had become a public issue. In 1953 a departmental committee(8) was set up 'To review the economic and financial problems involved in providing for old age, having regard to the prospective increase in the numbers of the aged and to make recommendations' (H.M. Treasury, 1954; S1, p.1). The committee endorsed the principle of universal

contributory NI pensions, while making recommendations for changes in the operation of the scheme (ibid., S301-311). The interest of the Phillips Report in the context of this study lies in its specific discussion of occupational pension provision, the committee having concluded that 'Pensions relating to former employment are playing an increasingly important part in the provision for old age' (ibid., S216, p.58), as envisaged by Beveridge (ibid., S4, p.7).

In 1953 there were few up-to-date statistics available on occupational pension schemes and no official survey had been carried out since the pioneer effort of 1936.(9) On best available estimates, it was deduced that 3 million people in public service employment and over 5 million in 'industry and commerce' were covered by superannuation schemes. The latter figure was 'three times what it was 20 years ago and there is a continuing expansion in this field' (ibid., S312, pp.81-2), though the recent origins of many schemes meant that they would not, in point of fact, be actually paying out pensions for some years.

Of the total number assumed to be 'covered' by superannuation schemes, it was estimated that about a million people, mainly from the public sector, were already drawing pensions. The other seven million (estimated as constituting about one-third of current NI contributors) included 2½ million in the 'public services', 1½ million in the Nationalised Industries and 3 million in 'other industries'. This latter group had a slightly higher proportion in Life Office schemes as opposed to 'internally administered' schemes.(10) Women were very under-represented among the existing pensioners and among the identified contributors to occupational pension schemes (ibid., Appendix V, Table 2, p.114).

The committee recorded its impression that there was a 'continuing expansion' in the occupational pension sector and gave some brief details on the nature of the various occupational schemes and their modes of funding, commenting that schemes 'enable persons to preserve in retirement a standard which is nearer to the standard of living they enjoyed during working life' and that such pensions should lessen the need for retired people to apply for National Assistance (ibid., S231, p.62). However, it was pointed out that while 'the existence of such schemes in some industries inevitably leads to pressure for the introduction of them in others' (S233, p.62), in some cases cost might preclude the introduction of such schemes or, in other industries such as building and civil engineering, high turnover might make employers' pension provision a less viable option (ibid.).

The committee felt that the combined income from both state and occupational pension schemes should not exceed two-thirds of an individual's final salary or equivalent, though it warned that inflation 'effectively reduced the level of provision for retirement'. For the majority of retired people whose pensions, at that time, were typically related to average salary over a working life (not up-rated to current money values), rather than final salary, there appeared to be no 'immediate risk of superannuation resulting in over-provision for old age'. The committee, recognising that a principle of 'two-thirds of final salary' at maximum might result in very modest provision indeed for the lowest income groups, advised that 'modifications may be needed in respect of workers whose final wages are low.' (S241, p.64) They also warned against employees having to make pension contributions which were too high, having regard to the level of remuneration, thus leading to pressure

for higher wages with the inherent danger of introducing inflationary wage pressures (S242, p.65). In general, the Phillips committee endorsed the principle of occupational pension provision, stating that 'The development of superannuation schemes is desirable on grounds of social policy' (S313, p.82).

Another reflection of public concern about financial provision for old age was the preparation of 'a study on the impact of pension payments on the national economy' by the Institute of Actuaries, also published in 1954. This enterprise tried to obtain factual material about the volume of current pension payments and pension rights, including the number of members covered by existing schemes.(11)

Table 3

Estimated numbers covered by existing employers' pension schemes (1950-52) G B.

000s

	Males	Females	Total
Civil Service	490	140	630
Local government	350	100	450
Teachers	115	165	280
National Health Service	110	260	370
Police	71	2	73
Fire Service	34	-	34
Total	1,170,000	667,000	1,837,000
Privately administered schemes	2,100	400	2,500
Life Office schemes	1,150	250	1,400
Mine Workers	540	-	540
Total	3,790,000	650,000	4,440,000
Grand Total	4,960,000	1,317,000	6,277,000

Source: Bacon et al. (1954), Table, p.150.

The report commented that while occupational pension schemes were a minority provision, they nonetheless put both spending and consumption power in the hands of a group sizeable enough for this to constitute 'an important aspect of the national economy' (ibid., S89, p.165). They also noted that the formalisation of pension schemes in the middle years of the twentieth century 'leads to a relatively higher standard of life among the old than they were able to command before organised pension schemes were thought of' (ibid., S92, p.166).

Contemporary students of pension provision viewed the clearly increasing amount of occupational pension provision with varying degrees of favour or apprehension. In the latter category was Abel-Smith (1953) who argued that

> 'Private superannuation schemes for the salaried and the upper crust of the workers are growing so fast that the provision for old age through the state is gradually becoming a sump for those excluded from other superannuation arrangements be it by their grade or occupation.' (Abel-Smith, 1953, p.39)

Heclo (1974, pp.260-272) has documented the part ultimately played in developing the Labour Party's plan for national superannuation by Titmuss and colleagues at the London School of Economics.[12] Abel-Smith and Townsend had argued the case for national superannuation, stating

> 'If such a scheme was introduced, people would not wish to make as large a provision at present outside the scheme, particularly if tax concessions on future contributions to the funds of occupational pension schemes were withdrawn.' (Abel-Smith and Townsend, 1955, p.25)

The authors also argued for 'proportionate contributions' to their proposed re-modelled state pension scheme.

Abel-Smith and Townsend referred back to Titmuss's earlier identification of the existence of 'two nations in old age'.[13] The Labour Party

came to accept (see Heclo, 1974, p.262) that the way out of such polarisation lay in the provision of a comprehensive, earnings-related state superannuation scheme, responsive to inflation, which would offer substantial alternative and complementary provision to the occupational sector. National Superannuation (1957), while pointing out the 'dangers and disadvantages from the workers' point of view which can arise from occupational pensions', concedes that

> 'It would be foolish to deny, however, that the advantages of a good superannuation scheme enormously outweigh its disadvantages. Those employees who are members of such schemes form, indeed, a privileged minority in comparison with the two-thirds of the working population who are still outside any form of superannuation.'
> (The Labour Party, 1957, p.13)

The new National Superannuation scheme (giving women equal rights with men) was envisaged as having a continuing compulsory flat-rate retirement benefit and a second-tier graded pensions component into which employers' pension scheme members could opt, bringing their existing pension rights with them (ibid., p.54).

However, occupational pension schemes would be allowed to run alongside the comprehensive state earnings-related scheme, requiring formal approval if substituting for the second 'graded' tier of national superannuation. Any 'approved scheme' would have to compare 'not unfavourably' with the national scheme in respect of contributions and benefits, and transferability would have to be introduced into the occupational sector. Thus, argues Heclo (1974, p.265), by not proposing to make full membership of the scheme universal and compulsory, the Labour Party avoided arousing hostility from groups such as middle-class people with pension rights and trade unions with pension plans.

'National Superannuation' received a predictably hostile reception from the Conservative party and also from organisations such

as the British Chambers of Commerce who feared that occupational pension growth would be restricted (ibid., p.266). The Life Offices Association, representing companies heavily involved in the provision of insured private pensions, also attacked the plan, reflecting widespread fears among relevant financial interests of a nationalised insurance industry (ibid., p.267). This anxiety was fuelled by the proposal that the National Superannuation fund's trustees 'should have the same opportunity to carry out profitable investment of their funds as private insurance companies' (ibid., p.265 and see pp.267-8).

In the knowledge that Labour was preparing a pension policy statement, the Conservative party began work on its own proposals in 1957, one specific aim being to 'provide encouragement to private occupational pensions' (ibid., p.264). Seldon (1957) in his critique of pension provision, argued strongly for increased employers' provision and other means of generating income and capital for retirement, independent of statutory provision. His position rested on the notion that increased economic prosperity and wider opportunities for the individual to provide for old age would reduce the need for state intervention other than on behalf of a small residual minority (Seldon, 1957, p.26). While arguing strongly for wider access to occupational pension benefits, Seldon stated that this provision should not be compulsory, since some persons might prefer 'higher present pay instead of a pension scheme. They should be free to do as they please.' (Ibid., p.7) A compulsory state superannuation scheme would threaten the existence of occupational pension provision (ibid., p.21), the merits of which rested on the responsiveness of the different schemes to the needs of the individual in the context of the particular type of employment wherein the scheme was located (ibid., p.23).

In Seldon's view, while state pensions 'have a part to play in a developing society' they 'should be abandoned as soon as we can dispense with them. We should use them as a crutch, to throw away as soon as we can walk.' (Ibid., p.36)

In 1958, the Conservative government produced a White Paper outlining proposals for a new initiative in state pension provision. The scheme, subsequently introduced via the National Insurance Act 1959, is of particular interest in the context of occupational pensions since it included a 'second-tier' earnings-related statutory pensions scheme to supplement basic retirement and widows' pension provision for those persons not equally well provided for via occupational pension provision. A key feature of the proposed new arrangements was a procedure whereby employees who were members of an occupational pension scheme giving benefits at least as favourable as the new state earnings-related scheme were to be 'contracted-out' of the latter.

The 'first tier' of the new state provision was to preserve the principle of a flat-rate contribution by employer and employee up to a modest 'ceiling'. Basic pensions on the existing National Insurance principle were to continue, with exemption and special entitlement regulations for married women as before. The 'second tier' pension was based on a new principle whereby both employer and employee were to pay additional 'graduated' contributions on a further band of earnings, giving an additional 'earnings-related' second-tier retirement or widow's pension (Wiseman, 1965, pp.181-82). These graduated contributions would relieve the financial burden on the Exchequer in respect of state retirement pensions.

It was claimed that 'It is clear that occupational schemes now form an integral part both of the economy and of provision for old age

for which allowance must be made in any development of the state scheme' (MPNI, 1958, S19, p.8). Occupational schemes were viewed as an expanding national asset, 'One of the most impressive features of this impressive development' being 'the progressive extension of coverage from managerial and clerical to manual workers' (ibid, S16, p.7). The schemes, while exhibiting 'considerable diversity' were portrayed as having 'three features in common:-

1) They provide cover which is more closely adapted to the individual and his employment than any universal scheme can be

2) They offer an improved standard of living in old age for an increasing section of the population

3) Their funds form a major part of national savings for investment and thus help to recreate the real assets on which the future standard of living of the old must depend.' (Ibid., S18, p.8)

Ideas on improving the transferability of occupational pension entitlements on change of employment were solicited (ibid., S20, p.8).

The White Paper viewed the increasing proportion of people who had pension rights outside the NI scheme as an encouraging feature of existing provision for retirement. However, it recognised the limitations of such provision with two-thirds of industrial workers (including half the men) not currently covered by such schemes, nor did it seem likely that provision would be made for them via private schemes 'at any rate for some time to come' (ibid., S24, p.8).

As already noted, in the previous year, 1957, the Conservative Party, in office since 1951, had been faced by its opponents with a major plan for National Superannuation designed to make greatly improved retirement pension provision for just those categories of employee who were not covered by occupational pension schemes. In its own proposals for the reform of state retirement pension provision, the government

therefore emphasised the case for graduated contributions and earnings-related pensions.

> 'Developing needs of the old in a community enjoying rising standards of life cannot adequately be met by contributions which have to be fixed at a level all can pay. The speed of the convoy is that of the slowest ship.' (Ibid., S23, p.8)

The Conservative government believed that an increase in flat-rate contributions which fell with equal incidence on both the full-time and part-time worker, or the high-paid and the low-paid worker, would be viewed as inequitable (ibid., S25, p.8). A system of graduated employer/employee contributions to a state scheme, related to some degree to earnings, 'would institute a measure of wage-related pension provision for those who, for one reason or another, have no such provision through a suitable occupational pension scheme.'

Just who these excluded persons might be had become more evident from the findings of the first post-war official enquiry into occupational pension provision. The Phillips Committee (1954) had argued that in order to formulate an adequate policy on financial provision for old age, 'information about occupational pension schemes in industry and commerce' would be necessary and recommended that 'some central official agency' should publish such 'adequate details' as schemes might be required to supply (H.M. Treasury, 1954a, S319, p.83).[14] This recommendation was adopted and the first official statistical survey of occupational pension schemes and their membership was undertaken by the Government Actuary's department, which reported in 1958.

The survey, based on numbers at the end of 1956, showed that over 8 million people were estimated to be in membership of occupational pension schemes. There were 4,300,000 employees estimated as in membership

of private sector schemes (GA 1958, S13, p.4). No count was made of membership in the public sector (including the Armed Forces) or the nationalised industries, but an estimate put this membership at 2.3 millions and 1.5 millions respectively (ibid., S14, p.5).

Table 4

Occupational scheme membership 1956 000s

GB and N Ireland (Private sector: estimate).

		Total number of employees of firms having occupational pension schemes	Total number of employees who are members of those pension schemes	% covered by schemes
MEN:	Salaried	2,220	1,580	71
	Wage earning	4,910	1,890	38
	TOTAL	7,130	3,470	49
WOMEN:	Salaried	1,100	370	34
	Wage earning	1,970	460	23
	TOTAL	3,070	830	27
	Grand Total	10,200	4,300	42

Source: GA (1958), S13, p.4.

These figures show that salaried men had a far higher chance of occupational pension scheme membership as a 'fringe benefit' of their employment than had wage-earning men, or either category of women. Wage-earning men were marginally more likely than salaried women to be in pensionable employment. Only two in ten wage-earning women were

in occupational pension schemes as compared with seven out of ten salaried men. In terms of the total membership of schemes, around 45% of both men and women were ranked as salaried.

Many occupational pension schemes were very small. Out of a total of approximately 37,500 schemes, 28,500 had less than 50 members. There were 1,400 schemes designated 'large', with over 500 members. Only 400 schemes had a membership between 1,000 - 1,999, 100 had 2,000 - 2,999 members and 100 had over 3,000 members (ibid., S12, p.4).

Of scheme members, 76% of those with 'large' employers were in non-insured schemes and 24% in schemes administered by insurance companies. Those with smaller employers were less likely to be in an employer-administered scheme (34%) than in an insured scheme (66%). It was found that employees were more likely to be in an occupational pension scheme where the employer had a non-insured scheme run by the employing organisation (ibid., S15, p.5). Evidence on the nature of schemes (which incorporated a sample from the public sector including nationalised industries) showed that compulsory membership was 'almost universal' in the latter sector. In the private sector there was a fairly even balance between compulsory and voluntary membership (ibid, S22, p.8). For whatever reason, there was certainly an under-representation of women in membership of occupational schemes in 1958.

The improved provision proposed for women participants in the Labour Party's National Superannuation scheme was but one feature intended to establish it as a viable alternative to occupational pension provision. The Conservative Party, by contrast, viewed such alternative provision as merely the vehicle for providing a basic retirement pension with an improved but 'residual' second-tier pension for those unable to gain

access to occupational schemes. On the evidence of the GA's 1958 survey, women and non-salaried men would be prime candidates for such provision. In pursuing its goal of 'reasonable provision for old age' the Conservative government believed that 'an excessive extension of the state pension scheme by way of graduation could do grave damage to existing occupational pension schemes and future developments in this field.' (MPNI, 1958, S32-33, p.10) Occupational schemes were seen as 'an important channel for the nation's savings' and 'a most valuable source of funds for investment.' (Ibid., S38, p.11)

In the event, a Graduated Pension Scheme was introduced via the National Insurance Act 1959 (effective 1961), comprising a second-tier extension to existing basic statutory retirement provision, including additional widows' pensions. Rhodes (1965) argues that it was this scheme which really focussed attention on the question of the extent to which pensions should be provided by employers or the state. The 1958 White Paper had stated a government aim 'To preserve and encourage the best development of occupational pension schemes' as well as to provide 'some measure of pension related to their earnings' for those who for some reason were not covered by 'an appropriate occupational scheme' (Rhodes, p.187).

The graduated pension arrangements required all liable employees to pay flat-rate contributions on the first £9 of their earnings.(15) Employees with earnings between £9 - £15 were required to pay extra 'graduated' contributions towards an earnings-related second-tier pension, unless they were 'contracted out' by virtue of belonging to an approved occupational pension scheme. 6d. a week would be added to their eventual sate pension for each £7 10s. 0d. worth of contributions (males) or £9 (females).

The introduction of these 'earnings-related' state pensions meant that in cases where employers did not wish to introduce occupational pensions, or, even more importantly, did not wish to introduce them for certain categories of employee, such as manual workers or women, they could point to the existence of an alternative, in the shape of a second-tier state scheme making more generous provision for old age than hitherto - provision designed to reflect the employee's level of life-time earnings. It can be argued that the Graduated Pension Scheme further institutionalised inequality in pension provision. As G.R. Reynolds M.P. commented, 'The very section of the community which needs a more adequate pension is being left out' (H OF C, 606, col.846, 9/6/1959). Those earning under £9 did not benefit: some earning between £9 and £15 though not 'contracted-out' by their employers, were in fact given access to occupational pension provision.

This section ends at the point where the state introduced its own 'second-tier' provision. Green (1982, p.268) believes that it was the absence of such provision which in part accounts for the expansion of the occupational sector in the 1950s. Examination of contemporary publications gives other clues.

Tax concessions are frequently mentioned as a rationale for occupational pension provision. Durham (1956, pp.3-6) in a technical publication geared towards scheme providers, gives a lengthy explanation as to why 'Almost without exception the approval of the Inland Revenue authorities is sought for new pension schemes because the advantages in relief of taxation which result from approval are so great'. Employee contributions are tax-relieved, employers' contributions are a legitimate business

expense and the interest income of the pension fund qualifies for nil or reduced taxation (Durham, 1956, p.4). Pilch and Wood (1960, p.25) and Seldon (1957, p.5) also emphasise tax benefits. Mr P. Geddes in a Faculty of Actuaries' seminar in Edinburgh (14/4/1954) stated that 'It was known that many schemes were being set up more for the purposes of easing or spreading the employer's tax burden than through any solicitude for the wellbeing of, or any particular demand on the part of the employees' and quoted employers as regarding their private pension schemes as 'a hindrance', 'an embarrassment' or even 'a confounded nuisance'.

The Institute of Actuaries (1954) pointed out how, in the past, employers' pension provision had been made on a voluntary basis, with a strong moral imperative being directed towards a man (sic) to provide for his old age (Bacon, et al., 1954, p.166). Pilch and Wood refer to motives of philanthropy on the part of the employers but also note that employers' pensions were 'the least expensive and most effective way of doing something which must be done if a business is to survive and prosper for more than one generation.' (Pilch and Wood, 1960, p.39) They also argue that such pensions are 'efficient' in that they allow employees to be retired, thus avoiding blocked promotion and discontent (ibid., p.40), an argument used by Seldon (1957, p.5) and Durham (1956, p.2). Occupational pensions are also valued for their attractiveness to employees. Durham (ibid.) argues that there is an ethical reason for pensioning off long-service employees who have 'earned some right to security and recognition in old age.' However, he believes that with the expansion of occupational pension provision, they come to be taken for granted as 'deferred payments'. This notion of 'deferred

earnings' is argued by Pilch and Wood (1960, p.26) to constitute an 'important shift of emphasis in objectives.' They recount that before World War II, employers exhorted employees to be thrifty, emphasising that pensions were intended to supplement not replace private provision. Despite expression of 'similar sentiments' since the war, pension schemes were planned 'on the assumption that they would provide substantially the whole of an employee's income at retirement', apart from the basic state pension.

> 'Thus, gradually, a new concept was developed - that all remuneration was divided into two parts: an immediate and taxable portion which should be sufficient to provide for current expenditure; and an deferred part which should be accumulated, free of tax, to provide for a man's (sic) retirement or for his dependants in the event of his premature death. In other words, the purpose of a pension scheme was to spread a man's earnings over the whole of life instead of confining them to his working years. Only in this way could he enjoy to his best advantage the rewards of his labours.'

The relationship between full employment (argued by some as 'over full'), and pension provision also features in the literature. Pilch and Wood (1960, p.25) insist that employers must offer such incentives in order to attract labour and reduce labour turn-over (Durham, 1956, p.2). Seldon (1957, p.5) also follows this line of argument, the negative side of which was noted at the Edinburgh actuaries' meeting (above) when J.D. Binns spoke of a 'deleterious immobilisation', caused by older or middle aged people 'ossified in their existing jobs' due to unwillingness to cede pension rights by, presumably, moving or retiring (Institute of Actuaries, 1954, p.211).

Seldon (1957, p.5) also offers a negative perspective on occupational pensions, stating that they have less value as 'loyalty ties' when they are more widely provided and employers have to be 'competitive' with

each other regarding fringe benefits. Seldon does however praise occupational pensions as a 'flexible' provision from the standpoint of both employer and employee (Seldon, 1957, p.23), offering, for instance, variable ages of retirement along with variable bases for calculation of pension benefits and provision for survivors. This view is however challenged by the Institute of Actuaries (1954) which points out that as pension schemes became formalised and run by administrators 'less direct contact with the individual and his circumstances' results. It is pointed out that frequently neither employers nor employees, even in small businesses, live near their work, so that

> 'Many employers although they have a good idea in the aggregate how their employees live, know very little of the circumstances of the individuals. Consequently the test of whether a person is to have a pension, and if so how much, ceases to be a test of what he needs and becomes a test by rule: the pension is of an amount fixed by scale and starts at a fixed age.' (Ibid., p.166)

'Flexibility' was also stressed by the White Paper (M.P.N.1, 1958, S18, p.8), which also commended occupational pensions for holding out the prospect of an improved standard of living for their beneficiaries or, as put by Pilch and Wood (1960, p.63), having the purpose of providing 'for something a little better than mere subsistence in retirement'. As these authors noted (ibid., p.62), the lump sum benefit characteristic of occupational pension schemes is an advantage to those who have not easily been able to save for retirement. The White Paper also commented on the ability of occupational pension schemes to generate funds for institutional investment (MPNI, 1958, S18, p.8).

However, the potential of occupational pension schemes to lift their members well above the poverty line in retirement, or even, at worst, to 'over-provide' for retirement pensioners, was regarded

by its critics as divisive. Labour's National Superannuation quoted a Fabian publication stating 'The whip of unemployment ... is gradually being replaced by the rod of the pension fund. The threat of starvation in working life is being replaced by the threat of poverty in old age.' (Labour Party, 1957, p.13)

It took the research findings leading to the 'rediscovery of poverty' in the 1960s to actually highlight and document the part which occupational pension provisions, or the lack of it, played in the creation of the 'two nations' in old age, and the extent to which poverty in old age was, in reality, female poverty (see Ch.4).

II 'Pensions for prosperity'? 1959-69

The decade following the National Insurance Act 1959 saw a considerable growth in occupational pension provision. Employers' schemes had to adapt to a situation in which 'contracting-out' of the second tier of the new state scheme was a possibility. Although the Labour Party formed the government from 1964, it took until 1969 to produce a White Paper on national superannuation.

Heclo (1974) in his account of British post-war pensions policy comments that 'Following the hyperactivity of the late 1950s, pension policy entered a quiescent phase for most of the 1960s.' (Pp.272-73) The providers of occupational pensions, as Rhodes (1965) clearly illustrates, had to accommodate their arrangements to the existence of the Graduated Pension Scheme and deal with the ensuing technicalities of administration. At the point where the new scheme became operational in 1961, 4.1 million employees were 'contracted-out', far more than the 2.5 million originally estimated by the government. Professional pension specialists advised their clients to 'contract-out', especially where they had a high proportion of better-paid workers. Insurance shares did particularly well (Heclo, 1974, p.273).

By the early 1960s, the divergence between the two major political parties with regard to pension policies was marked. 'The Conservative government was seen by Labour to be restricting the state scheme to a limited service for the supplementation of occupational pension schemes.' (Webb, 1975, p.417) The Labour party was aware of a growing number of elderly people who would have to rely on a means-tested social assistance programme in the absence of adequate state pension provision 'not least because the occupational sector offered little

provision for the low paid and limited provision for women' (ibid.).[16] It was also critical of the new Graduated Pension Scheme, arguing that 'by paying graded benefits of outrageously poor value, the Tory scheme has increased the insurance firms' business by driving people to take out private pension cover' (The Labour Party, 1961, p.8).

> 'By combining a low level of National Insurance benefit with generous tax concessions it has almost compelled the employer with a conscience to establish his own private system of social security.' (The Labour Party, 1963, p.10)

Lynes (1963), in a wide-ranging critique of the new Conservative scheme, commented on the low level of the earnings-related benefits, not unrelated to the fact that the scheme had been . 'deliberately pitched at a level which left room for private schemes to operate concurrently with it.' (Ibid., p.16)

The Labour Party argued that while it was 'in no way opposed to the provision by progressive employers - whether private or public - of their own superannuation, redundancy and sickness schemes', the problem lay in restricted access to such schemes

> 'Outside the public services, the nationalised industries and a few progressive firms, this kind of social security is normally linked to a minority of executives, white collar employees and industrial workers on the staff. Many millions of working people today still belong to the other nation.' (The Labour Party, 1963, pp.9-10)

By improved statutory pension provision, the Labour party 'determined to guarantee to every working member of the community as of right, the high level of social security which is at present a privilege accorded to a small minority by their employers.' (Ibid., p.5)

Opponents of public social service provision, such as Seldon, believed that growing economic prosperity would in due course eradicate all but a residue of poverty in old age. In a pamphlet suitably entitled

Pensions for Prosperity, Seldon (1960) argued that 'In a society which values personal liberty' and where people earn enough to save, it should be a matter of individual choice to provide for old age, or not.

> 'A man will be free to decide whether to spend most of his income on himself or his family while young enough to enjoy it and leave the future to take care of itself, or to live moderately while he earns, and look forward to years of carefree ease when he retires.' (Seldon, 1960, p.8)

Optional employers' pensions were a preferred alternative to comprehensive statutory provision, in Seldon's view.[17] With respect to the Graduated Pension Scheme, Seldon argued for contracting-out of lower-paid workers in the private sector on the grounds that

> 'good relations with employees may be bought cheaply at the price. A pension is part of remuneration, one of the fringe benefits of a good job that should be negotiated between employer and employee: the state has no business here.' (Ibid., p.34)

Seldon maintained that the exclusion of lower paid employees from occupational pension schemes could be divisive, leading to poor morale in a work-force (ibid.). In addition, 'employers who wish to generate a sense of loyalty to and identify with the firm as a continuing entity will prefer their employees to look to the firm rather than the state for their retirement income.' (Ibid.)

For whatever reason, membership of occupational pension schemes increased in the early 1960s. A second survey was undertaken by the GAD, covering both public and private sector provision (G.A., 1966).

Table 5

Occupational scheme membership 1963

U.K. (Private and public sectors: estimate).

(millions)

		Private Sector	Public Sector	Total
A	Total employees			
	Men	10.1	4.0	14.1
	Women	3.8	1.6	5.4
	Total	13.9	5.6	19.5
B	Pensionable employees			
	Men	6.4	3.0	9.4
	Women	0.8	0.9	1.7
	Total	7.2	3.9	11.1

Source: GA (1966), Table 1, p.7.

The survey commented that a very high proportion of paid employees worked for organisations which had pension schemes, but that only a little over half were actually in membership of schemes. There had been an increase of 4 million in the number of people in firms with schemes in the private sector, and the proportion of employees covered had grown from 42% to 52%. The GAD estimated that the number of employees in schemes was growing by an average 500,000 per year, reaching 12 million during 1965 (ibid., S20, p.7.).

Whereas in 1956, membership was analysed by sex, a distinction being made between salaried or waged status, in 1963 an analysis was made by sex and manual or non-manual status.

Table 6

Employees in schemes by sex and category: private and public sectors: 1956, 1963:GB.

(millions)

Employees: Salaried 1956 Non-Manual 1963	Private Sector 1956	Private Sector 1963	Public Sector 1956	Public Sector 1963	Total 1956	Total 1963
Men	1.6	2.8	1.1	1.3	2.7	4.1
Women	0.4	0.5	0.7	0.8	1.1	1.3
	2.0	3.3	1.8	2.1	3.8	5.4
Employees: Waged 1956 Manual 1963						
Men	1.9	3.6	1.7	1.7	3.6	5.3
Women	0.4	0.3	0.1	0.1	0.5	0.4
	2.3	3.9	1.8	1.8	4.1	5.7
Grand Total	4.3	7.2	3.6	3.9	7.9	11.1

Source: GA (1966), Tables 7 and 8, p.11.

The large growth in scheme membership related entirely to men and was a phenomenon of private sector employment. The survey noted that 'Some schemes for women members appear to have been discontinued, as a result of the introduction of National Insurance Graduated Pensions.' (Ibid., S26, p.11) It was argued that the number of manual women

in membership of occupational pension schemes may have fallen in 'consequence of the introduction of the ... Graduated Pension Scheme.' (Ibid., S27, p.12)

Table 7

Proportions of employees in schemes, by sex and category private and public sectors: 1956, 1963:GB.

	Private		Public	
	1956	1963	1956	1963
	%	%	%	%
Employees: Salaried 1956 Non-Manual 1963				
Men	71	80	-	90
Women	34	40	-	80
Employees: Waged 1956 Manual 1963				
Men	38	55	-	65
Women	23	15	-	15

Source: GA (1966), Table 9 and S27, p.12.

These figures appear to bear out Heclo's assertion that the Graduated Pension Scheme 'not only avoided hindering the development of private occupational pensions, but provided a positive fillip to the entire private sector' (1974, p.273). Nonetheless, even taking the disparate categories in the above table, there appears to have been a growing 'gender-gap' in terms of employee coverage, a point to be explored in the next chapter.

An illustration of the increasing perception in official circles of occupational pension provision as an important and developing phenomenon can be seen in the decision of RIPA to commission a major review of 'the policies currently implicit in public sector schemes' (including administration and finance), 'which would also seek to set these schemes in the wider context of a national pensions policy,' (Rhodes, 1965, p.9).[18] The study examined twelve public sector schemes in detail and also sought to make a limited comparison between such schemes and those provided in the private sector. (See Rhodes: Ch.5, pp.127-52)[19]

The report provides a useful picture of the occupational pensions sector in the mid-1960s. Public sector schemes were found to have a considerable degree of similarity. By far the most important benefit was found to be 'the pension (or pension and lump sum) which the member expects to receive on retirement;' (ibid., p.73). Most schemes were compulsory for full-time employees (with the exception of local government), while part-time employees were seldom covered (ibid., pp.74-75). The Civil Service was the only scheme not requiring employee contributions; the typical contribution was 5-6% of annual pay. Apart from the nationalised industries, the 'normal' age of retirement was, typically, 60 or below - for women, 60 was near-universal (ibid., p.75). Most schemes required 10 years' service for eligibility to benefit, though the teachers' scheme required 30 and the police and fire service schemes, usually, 25 (ibid., p.76).

An attractive feature of the schemes resided in the typical retirement pension being based on the average of the last three years' salary, with a maximum of two-thirds salary being allowed, calculated on not more than 40 years' service. Furthermore, unlike the private sector,

public service employment commonly offered a lump sum (typically three-eighths of the average final salary multiplied by the years of service), payable on retirement. In some cases these lump sums were reduced if widows' (and in some cases childrens') benefits were payable (ibid., p.77). Benefit entitlement also, typically, included (with variation as between individual schemes), early retirement pensions on grounds of ill-health, death-in-service benefits and widows' and childrens' pensions (ibid., pp.77-78). Perhaps the most valuable feature held in common by public sector schemes was that which established what has become known as the 'transfer club' whereby it is generally possible to transfer between two public employments, under certain conditions, without loss of pension rights (ibid., p.83).

In comparing public and private occupation pension provision, the study established both key differences and common issues. Public schemes were very large indeed as compared with the typical private scheme: thus, in the public sector many different types of employee had to be catered for by detailed rules which attempted to cover all possibilities and were operated with little discretion and within a general climate of ensuring proper control over the expenditure of public money (ibid., p.200). By contrast, private schemes were very diverse (ibid., p.128) and tended to distinguish between salaried staff and waged employees more than in the public sector schemes (ibid., p.130). Widows' and ill-health pensions were much less common in the private sector within insured (as opposed to self-administered) schemes (ibid.), but provision for straight-forward 'early retirement' on a reduced pension was more common in the private sector, particularly in insured schemes (ibid., pp.130-31). It was also very rare for

private sector schemes to provide both a retirement pension and a lump sum (ibid., p.131), though they appeared to make more provision for members to make additional voluntary contributions to make up for 'missed' years (ibid., p.133). It was not found possible to make worthwhile comparisons on the level of benefits or contributions (ibid., p.135).

The RIPA study also dealt with the impact of National Insurance on occupational pension schemes. With the introduction of the basic NI scheme in 1948, it was no longer the case that occupations with an employer's pension scheme were 'excepted' as they had been under the 1925 legislation. Since there was fear that public servants would be 'over-pensioned' and the post-war NI pensions were intended as a universal provision, it was decided to reduce public sector pensions by an amount which, at maximum, was roughly equal to a single person's retirement pension in 1948 (see Rhodes, pp.158-64).[20] This practice was identified in some private sector schemes (ibid., p.138), both to avoid 'over-pensioning' and to reduce employer costs.

'Most members of public schemes' were found to be contracted out of the Graduated Pension Scheme along with 'nearly 30% of the members of private sector schemes'. What appeared to be happening was that the employers were themselves adjusting their pension scheme arrangements to take account of the new graduated state provision and in one case documented, charging the employees a 'composite' contribution to cover both NI and occupational provision. There was then no guaranteed rate of pension payable by the employer, since the eventual amount would relate, in proportion, to the eventual NI benefits, both basic and graduated (ibid., pp.138-39). There is a sense in which this

employer was anticipating the 1975 pensions legislation. As Rhodes commented, 'this scheme goes further in practice than most schemes and certainly further than public sector schemes in recognizing the state scheme as an integral part of the pension provision for retirement' (ibid., p.140), i.e. the occupational scheme aimed to supplement state provision, to a given level.

Rhodes believed that the relationship between state and occupational provision was crucial, and hence argued for a well thought-out national pensions policy (ibid., pp.240-42). It becomes clear from this study that public service employment was losing its former position as the sector which provided a good pension for long-serving members of staff. Occupational pensions were becoming valuable 'fringe-benefits' in the private sector also, which in some cases offered a superior range of benefits to their public sector counterparts. Rhodes argued that in conditions of economic growth, it was likely that the working population would demand better pensions for themselves 'on the grounds that the elderly ought also in fairness to share in growing prosperity.' (Ibid., p.244) In this prescient study, Rhodes on behalf of RIPA, showed awareness of issues which were to play a major part in discussions of occupational pension provision in later years, such as preservation of pension rights, transferability of rights and inflation-proofing (ibid., pp.247-50). Rhodes' comments on occupational pension provision at the time of the study (1963-64) foreshadow the 'pensions debate' 1969-75.

> 'The basic dilemma is that the development of occupational pension schemes has been very uneven. For not only are there many people who are still not members of such schemes, despite the rapid growth of recent years, but the level of pensions provided by different

> schemes varies greatly. It therefore seems unlikely that in the ordinary course of events everybody will be covered by an occupational scheme and still less by an occupational scheme providing a reasonable standard of living, for a very long time to come. Whether the State should step in and fill the gaps left by the growth of occupational schemes or whether every effort should be made to encourage the growth of adequate occupational schemes is likely to prove the central question of political controversy..." (Rhodes, 1965, pp.246-47).

At the time of the RIPA study, Labour came into office with 'national superannuation' having formed part of their election proposals. However, there was a considerable delay before the plan was activated. As Heclo comments, the 1964 Labour government was elected on an extremely small majority. On its 1966 re-election 'Another two years were lost as the policy-makers grappled unsuccessfully with the immense administrative problems of the Labour party's proposed minimum income guarantee and with the recurring balance of payments crises.' (Heclo, 1974, p.274) The work of bringing out a White Paper in 1969 was completed in the late 60s and its theme was partnership between the state and the occupational sector.

Heclo has traced the genesis of this partnership to debates of the mid-fifties and to the solution found for 'two problems and one dilemma'. Firstly 'though private occupational pensions could not do everything they had done too much to be ignored' and secondly 'decent flat-rate pensions could not continue to be financed by flat-rate contributions without severely penalising those earning low incomes'. The dilemma was that a level of state superannuation provision which equalled the benefits of the private occupational sector would adversely affect that sector and its 'crucial contribution to national savings' (Heclo, 1974, p.275). Modest state provision, on the other hand, would leave out many of the better paid whose contributions were widely

viewed as a necessity for the improvement of the level of basic pension provision.

A solution had been found for the Graduated Pension Scheme in the form of a 'contracting out' device which was, in reality, only partial contracting-out or 'abatement' (ibid., p.276). The notion of abatement was further discussed by the 'pensions industry' in the 1960s (ibid.) and by the time the Labour party's White Paper was produced in 1969, it was not the principle but the detail of 'partial contracting-out' which was at issue. Heclo notes (p.275) that a great deal of consultation was undertaken with relevant interests by Crossman (Secretary of State for Social Services 1968-1970), whose published diary for the period records a number of such meetings.(21)

In anticipation of new national legislation likely to 'clearly influence the structure and size of occupational pension schemes' (GA, 1968, S1, p.1), the Labour government commissioned a third official survey of schemes.

Table 8

Occupational scheme membership, 1963: 1967

U.K. (Private and public sectors: estimate).

(millions)

	Private Sector		Public Sector		Total	
Employees: non-manual	1963	1967	1963	1967	1963	1967
Men	2.8	3.2	1.3	1.5	4.1	4.7
Women	0.5	0.8	0.8	0.9	1.3	1.7
	3.3	4.0	2.1	2.1	5.4	6.4
Employees: manual						
Men	3.6	3.6	1.7	1.6	5.3	5.2
Women	0.3	0.5	0.1	0.1	0.4	0.6
	3.9	4.1	1.8	1.7	5.7	5.8
Grand total	7.2	8.1	3.9	3.8	11.1	12.2

Source: GA (1968), Table 3, p.8.

In the four years since the previous survey, there had been a further increase of one million in the membership of occupational pensions schemes, mainly within the private sector, half of which represented an increase in female membership.

Table 9

Proportions of employees in schemes by sex and category: 1963, 1967: U.K. (Private and public sectors).

	Private		Public	
	1963	1967	1963	1967
Employees: non-manual	%	%	%	%
Men	80	75	90	90
Women	40	40	80	70
Employees: manual				
Men	55	60	65	65
Women	15	15	15	15

Source: GA, (1968), Table 4, p.9.

Total membership of pension schemes had increased. There had been a slight fall in the proportion of men in membership of private schemes and a larger fall in the proportion of women in membership of public schemes. The 1967 survey gave figures on causes of exclusion from schemes, showing that, in the private sector, both men and women were excluded on grounds of youth, age, insufficient service, ineligibility of employment refusal to join the scheme or exclusion at employer's option (ibid., S28, pp.10-11 and Table 6, p.11). Women were about

twice as likely as men to be so excluded. In the public sector, ineligible employment was the overwhelming cause for exclusion with, again, approximately double the number of women excluded. As will be discussed in Chapter 4, it was not unusual to exclude full-time women, while the growing numbers of part-time female employees found themselves excluded as routine employment practice.

Thus, in the 1960s, the providers of occupational pensions had further expanded their operations and accommodated themselves to the existence of the Graduated Pension Scheme. Tax concessions, the desire to attract and retain labour, plus considerations of 'efficiency' continued to motivate employers towards the provision of pension schemes. Meanwhile employees increasingly came to regard access to such schemes as the hall-mark of a 'good' job. For senior staff, an occupational pension was becoming a 'routine' fringe benefit. By 1969, the Labour party was ready with its new proposals for National Superannuation. The publication of this document heralded a prolonged period of debate over the future structure of retirement pension provision and the place of employers' schemes within that structure, culminating in the SSPA 1975.

III The 'pensions debate': 1969-75

The period 1969-75 is sometimes characterised as that of the 'pensions debate', when three successive governments, of contrasting political complexion, unveiled their pension proposals. First the 1964-70 Labour government's National Superannuation plan appeared, with the bill which followed being lost with the 1970 election. The 1969 'Crossman' plan had sought a major role for publicly provided earnings-related retirement pension provision. The 1971 'Joseph' plan, by contrast, favoured a major expansion of employers' superannuation, leaving a residual role for state provision. However, the 1970-74 Conservative government's legislation was extinguished by the incoming Labour administration of 1974-79. The 1974 'Castle' plan promised improved retirement pension provision for all, and especially for women, via 'integration' of state and occupational pension sectors. It was during this period that female access to pension provision, including that offered by the occupational sector, emerged conspicuously as a 'pensions issue'.

The 1969 White Paper outlined proposals for a comprehensive state scheme of earnings-related retirement provision to be developed in a context of partnership with occupational pension provision. The plan was for all employees to pay a percentage of their earnings as a social security contribution, up to a 'ceiling' of about 1½ times average earnings (DHSS, 1969, S55, p.20). For a single person, the eventual retirement pension would replace 60% of his or her earnings up to half the national average and 25% thereafter, up to the 'ceiling' (S64, p.23). By this means, the goal of an adequate retirement pension for all would be secured with the aid of a built-in element of redistribution in favour of low earners. The scheme would mature within 20 years, promising a 'dynamic' pension derived from 'revalued' contributions during working life, which would be further adjusted during retirement

in line with 'living standards' (S34, p.19). The White Paper included proposals for members of occupational pension schemes to be 'partially contracted-out', so that both employee and employer would pay lower contributions to the state scheme on that range of earnings which fell below the 'ceiling' (S138, pp.41-42). The employee would eventually receive a reduced state pension with the employer required to make up the difference with an occupational pension of a guaranteed amount (ibid, p.42).[22]

It was argued that occupational pension provision, 'a highly valued feature of employment' (S120, p.136), would gain from being underpinned by a substantial basic compulsory state scheme (S46, p.17) to be operated on a pay-as-you-go basis. Such 'two-tier' pension provision would assist the long-term development of occupational pension schemes (ibid.) with their valuable 'savings principle' (S47, p.18) and ability 'to meet the special needs of particular occupations and industries' (S48, p.18). It was not, however, felt that occupational provision could eventually meet all need for pensions in retirement, above a low state minimum (S110, p.33). Nor did a viable alternative reside in a combination of extensive occupational provision with a residual means-tested pensions scheme, since there was likely to be persisting differential access to employers' pension benefits, notably among women and 'manual' men (S113, p.34). Moreover, the typical occupational pension was small (S112, p.34). Small firms tended not to provide pensions (S114, p.34), nor were benefits necessarily adjusted to family needs, especially widowhood (S115, p.35). Though it was proposed to legislate for entitlement to preserve pension rights on job change ((8) S49, p.18), logistically, universal coverage seemed an impossibility. Even by the end of the century it was anticipated that one-third of all 'retirement pensioner households' would have no occupational benefits (S116, p.35). Finally,

there would be a problem around maintaining the value of those occupational pensions in payment (S117, p.36).

Heclo (1974, p.277) has commented on the quiet reception accorded to the White Paper and ensuing legislation. The legitimacy of establishing a comprehensive state superannuation scheme, as exemplified by the 'policy consensus', is attributed by Heclo to the previously mentioned lengthy consultations with interested parties which preceded the White Paper and accompanied the legislation. Room (1979, p.90) argues that there was rather more conflict of interests inherent in the situation than Heclo allows for, in that very different pension proposals emerged under a Conservative government in 1971. Certainly, Crossman's diaries document the role and influence of the 'insurance industry' among other 'pressure groups' with regard to Labour's National Superannuation plans (Crossman, 1977), as does his account of the 'politics of pensions' (1972). Lynes (1969, pp.25 and 26) considered that the Crossman scheme constituted 'a major victory for the life offices' in that it enabled the private sector of occupational pension provision to offer poor schemes by comparison with a state scheme which was 'good value for money', giving a better return on twenty years' contributions than a comparable occupational pension scheme (ibid., pp.24-25). Furthermore, a guaranteed level of inflation-proofed state pension would offer particularly good value to the lower-paid worker (ibid.). By contrast, occupational schemes would be permitted to offer pensions at fixed cash value, with no requirement for inflation-proofing, no bias in favour of the lower-paid and with no means of accommodating the benefits to any general rise in living standards (ibid., p.26). Indeed, the expectation of the Labour government appeared to be that the state would make good the deficits of the occupational pension sector by providing widows' pensions (not proposed as a compulsory provision in occupational schemes)

and by bridging any difference between a pensioner's occupational entitlements and what he or she would have obtained from the State scheme (ibid.).

After the publication of the White Paper, it was the exact formula for 'abatement' (or partial contracting-out) which engrossed the 'pensions industry'. During this time, trade unions became more actively concerned with pension issues, particularly those unions whose members were already covered by good occupational schemes and who feared that these gains might be eroded by the proposed new scheme (Heclo, 1974, p.278; Crossman, 1977). As Kincaid (1975, p.143) notes, large white-collar unions were affiliated to the Labour party, providing a major source of finance. They needed and were given assurances that the occupational pensions sector would be safeguarded.

The National Superannuation bill began its passage in January 1970 and had almost reached the final reading stage when the General Election was called in June, which Labour lost. As Heclo comments, the imminent completion of this legislation did not inhibit the Labour government from calling an election. The Superannuation bill fell, due to a 'political accident' and 'For the second time since the 1950s, it fell to the Labour Party to propose on superannuation and the Conservative party to dispose' (Heclo, 1974, p.279).

The new Conservative administration was not well-prepared to legislate on retirement pensions. Heclo (1974, p.299) characterises the Conservatives as having been, in opposition, not 'particularly alert or well-informed about superannuation' and lacking in both expert advice and interest. Once publication of the 1969 White Paper provided the impetus, work had started on an alternative plan, in the context of a party commitment 'to ensure that private occupational pensions were not impaired' (ibid.). The ensuing White Paper envisaged the future development of state and occupational pension provision as resting on a new administrative framework

assigning 'separate spheres' to the two sectors, allowing each to fulfil its own specific purposes and function (DHSS, 1971, S1. p.1). Occupational schemes were to be welcomed 'into full partnership with the State scheme' so as to 'develop the scope they offer for greater independence in retirement' (ibid., S3, p.1).

The 'Joseph' scheme was based on the notion of 'two-tier' provision consisting of an annually uprated flat-rate state retirement pension based on earnings-related contributions required as a 'social obligation' and not to be confused with insurance principles (S9, pp.3-4). Above this pay-as-you-go first tier would come, as much for the 'shop-floor worker as for the top executive' an occupational pension (S10, p.4), with transfer arrangements for job changers (S4, pp.1-2). For all but a minority, deferred earnings were to constitute a form of 'occupational saving', providing the employee with 'higher living standards for himself and his family' (S10, p.4).

For the minority without access to this expanded and improved occupational pension provision, compulsory membership would be required in a State Reserve Pensions Scheme 'of modest dimensions' (S27, p.9). Evidence existed to show that women, 'blue-collar' and 'small-firm' employees were under-represented in occupational schemes: nor did all schemes provide adequate cover for widowhood (S25, p.9). Some schemes provided 'meagre' benefits even to long-serving employees (ibid.). There was no prospect of requiring employers to provide universal pension provision, to a prescribed standard, not least because even employers with 'well-developed' schemes often found it 'impracticable' to cover all employees, especially short-service workers (S26, p.9). The State Reserve Scheme would be 'funded' and 'run along the lines of an occupational scheme by an independent Board of Management' with, hopefully, up-rating of

benefits in line with prices, if the fund proved to be invested profitably. There was no guarantee of this and contributions would be 'no higher than the generality of such employers and their employees can afford' (S27, p.9). The scheme was not intended to rival or substitute for the expansion of occupational provision (ibid.). As will be seen, the Reserve scheme offered a particularly poor deal to women, who would almost certainly have been over-represented among its clientele.

The 'Joseph' plan aimed to encourage the growth of occupational pension provision by licensing employers to exclude 'marginal' employees, including women, for whom the costs of administering pension provision was high in relation to their remuneration. The State Reserve Scheme was designed to cater for such marginal employees, in hopes of keeping them out of state means-tested social assistance provision in old age (S16, p.6). The Conservative administration prized a buoyant occupational pensions 'industry' as being valuable to the economy (S3, p.1), generating funds then estimated at £10,500 millions. Employers were to be encouraged to improve their schemes, deemed valuable also for their 'adaptability' to the needs of particular employees and employment (S24, p.9). It was the employer who met standards to be approved by the new Occupational Pensions Board for 'appropriate pension cover, effectively secured benefits and widows' pensions', who would be able to secure exemption from participation in the State Reserve Scheme (S28, p.9; S56, p.17). In future the 'normal' job would provide an earnings-related pension, preservable or transferable if an employee left at 26 plus, with at least five years' service (S65, p.19): younger/shorter service employees would have their accrued benefits transferred to the Reserve Scheme (S66, p.19). Considerable emphasis was put on the continuing application

of tax reliefs to occupational pension provision (S70, p20). The Conservative administration sought a 'constructive and durable partnership' (S85, p.27) between state and occupational sectors in which 'personal enterprise and foresight' would 'secure higher living standards in retirement' (S87, p.27).

Heclo (1974, p.279) commented that the 'Joseph' plan 'affirmed several features of the policy consensus' which had emerged since the 1950s such as flat-rate up-rateable basic pensions derived from earnings-related contributions and a state 'second-tier' earnings related pension for those not in employers' schemes (ibid., p.280). The 'insurance industry' which underwrote much private sector provision had, despite persistent canvassing over the years, consistently vetoed the notion of 'universal' second-tier pension provision via private insurance, lest insurance 'sharks' operating at the margins should provoke government regulation. It was feared that 'Increasing state controls would follow and destroy what was ... an exceptional degree of freedom from state regulation' (ibid.). As Walley (1972, p.135) observed, 'No privately organised pension scheme could safely offer benefits of equivalent value unless backed by a state guarantee which would, sooner or later, bring its structure and all its operations under such close control as to make it virtually a nationalised concern'.

Lynes (1969, p.27) had challenged some assumptions of the 'Joseph' plan in his previous critique of the 'Crossman' proposals. He translated 'flexible cover to suit differing personal needs' as meaning assisted tax avoidance by means of 'Top Hat' schemes for senior management personnel. Furthermore, the average employee was obliged to join an existing pension scheme 'and offered little or no choice as to the level or the type

of benefits for which he (sic) is covered' (ibid., pp.27-28).

In the event, due to the fall of the Conservative government in 1974, the Social Security Act 1973 never did become fully effective in 1975, as scheduled. Walley (1973, p.169) had stressed the importance for both employers and pension scheme administrators of securing reformed pension provision 'capable of commanding broad and continuing support across party lines'. Such provision had become equally necessary for employees. The 1975 Social Security Pensions Act which followed was in the nature of such a settlement.

Meanwhile, the Conservative government had commissioned a fourth official survey of occupational pension schemes.

Table 10

Occupational scheme membership: 1967; 1971:

U.K. (Private and public sectors: estimate). millions

	Private sector		Public sector		Total	
Employees:						
non-manual	1967	1971	1967	1971	1967	1971
Men	3.2	3.0	1.5	1.6	4.7	4.6
Women	0.8	0.9	0.9	0.9	1.7	1.8
Total	4.0	3.9	2.1	2.5	6.4	6.4
manual						
Men	3.6	2.6	1.6	1.5	5.2	4.1
Women	0.5	0.5	0.1	0.1	0.6	0.6
Total	4.1	3.1	1.7	1.6	5.8	4.7
Grand Total	8.1	7.0	3.8	4.1	12.2	11.1

Source: GA (1968), Table 3, p.8: GA (1972), Table 1, p.6.

The 1971 survey showed a large fall of one million in the membership of schemes. A total of 1,200,000 men had 'disappeared' while 10,000 more women were in membership: the major 'loss' was among manual men.(23)

Table 11

Proportion of employees in schemes by sex and category: 1967, 1971

U.K. (Private and public sectors).

	Private		Public	
	1967	1971	1967	1971
Employees: non-manual	%	%	%	%
Men	75	75	90	94
Women	40	36	80	60
Employees: manual				
Men	55	45	65	68
Women	15	19	15	25

Source: GA (1968), Table 4, p.9: GA (1972), Table 1, p.6; Table 2, p.8.

This table suggests that non-manual men had further secured their position as pensionable employees in the public sector and had maintained it in the private sector. Likewise, manual men had gained in the public sector but fallen back sharply in the private sector. Manual women had gained in both sectors, while non-manual women had decreased their representation in the private, and particularly, in the public sector. As in 1967, women were much more likely to be excluded from employers' pension schemes than their male colleagues: it can be inferred that the fall in the representation of public-sector non-manual women is accounted for by the presence of a growing proportion of female part-timers during the period in question.

The 1971 survey estimated that there were a million more former employees drawing occupational pensions than in the previous (1963) count. The increase was more marked in the private sector, and gave a total of 2,450,000. There were also 50,000 widows and dependants, (60% from the public sector): this was an increase of 20,000 (GA, 1972, Table 7, p.13).

The incoming 1974 Labour administration had to decide the fate of the State Reserve scheme, which required a high outlay for a poor, non inflation-proofed return - an even worse bargain for women than for men (Castle, 1980, p.65). To the chagrin of the 'pensions industry' it was decided to scrap the scheme in favour of an up-dated version of the Labour party's earnings-related 'Crossman' plan (ibid, pp100,116).

The White Paper of September 1974 once more proposed a partnership between comprehensive state superannuation provision and 'good' occupational schemes, retaining certain features of the two earlier proposals. A 'first-tier' flat-rate basic pension would be derived from earnings-related contributions and uprated in line with current earnings (DHSS, 1974a, S8, pp.2-3; S14, p.5). The second-tier pension would consist of an earnings-related 'state additional' pension, calculated on the up-rated value of an employee's 'best twenty years' of earnings between a 'base' (equal to the flat-rate National Insurance pension) and a 'ceiling' of seven times that amount. On that band of earnings between base and ceiling, the pensioner would get 25% of the average re-valued earnings as an earnings-related retirement pension (S8, pp.2-3). However, those with access to an 'approved' occupational pension scheme could be 'contracted-out' of the state additional scheme. All occupational pensioners would, in future, receive a 'guaranteed minimum pension'

equivalent to what their benefits would have been had they been members of the state 'second-tier' scheme: this arrangement promised a degree of inflation-proofing for all occupational pensions (S58-61, pp.16-17).

Again it was pointed out that occupational schemes were variable in both quality and coverage (S1, p.1), though 'socially valuable and economically important'. 'Staff' were better covered than manual workers and men better than women: many schemes gave little or no protection against inflation, had inadequate coverage for widowhood and disadvantaged job-changers. The second-tier state scheme (SERPS) was designed with attention to the needs of employees who were under-represented or disadvantaged in the occupational sector, including women, and it was intended that should set standards which occupational schemes could follow (S5, p.2).

It was argued that since inflation had moved many schemes in the direction of a 'final salary' basis for calculation of pension benefits, integration between state and occupational benefits had become a much more realistic possibility. The existence of the 'best' occupational schemes, which, typically, offered half-pay after 40 years' service, would help make possible 'a new and much more effective partnership in which state and occupational schemes can combine in a simple and logical way to provide a total pension that is adequate and fully-protected against inflation' (S57, p.16). All occupational schemes, whether contracted-out or not, would be required to meet prescribed standards regarding equal status for women, security, preservation and transfer, provision of information to members and involvement of members (including women) in the running of schemes. The Occupational Pensions Board was to be retained and charged with upholding these standards (S74-

81, pp.21-22). A Social Security Pensions bill was presented to the House of Commons in February 1975 as a measure promising a durable mode of integration between the state and occupational sectors. The ensuing Social Security Pensions Act incorporated the major features of the White Paper.

A further Government Actuary's survey was undertaken in 1975. The total membership of employers' pension schemes had by then risen by 400,000 to 11,500,000 of whom 2,800,000 were women (GA, 1978, Table 3.2, p.9). In the public sector, 74% of employees were members - 84% of men and 59% of women, with an increase of 500,000 men and 600,000 women in membership (ibid., Table 3.1, p.8). In the private sector, 53% of men and 17% of women were members, representing a decrease of 500,000 men and 200,000 women (ibid.). Over 7 million employees were excluded from schemes - 5½ million in the private sector and nearly 2 million public employees, including 1,600,000 part-time or temporary women employees (ibid., Table 3.11, p.17). It was still the case that private sector employees were far more likely to have access to an employers' pension scheme if they worked full-time for a large company (ibid., Table 3.5, p.11). Pensions in payment continued to be small (ibid., S4.5 - 4.8, pp.20-22).[24]

Table 12

Occupational scheme membership, 1971 [25]: 1975

U.K. (Private and public sectors: estimate).

millions

	Private sector		Public sector		Total	
Employees:	1971	1975	1971	1975	1971	1975
Men	5.5	5.0	3.2	3.7	8.7	8.7
Women	1.3	1.1	1.1	1.7	2.4	2.8
Total	6.8	6.1	4.3	5.4	11.1	11.5

Source: GA (1978), Table 3.2, p.9.

During the period of the 'pensions debate' three successive governments sought a means of providing reformed second-tier retirement pension provision which, in Labour's terms, would accommodate the occupational pensions sector or, in Conservative terms, would promote it. Both parties strove to set up an administrative framework within which the two types of provision could be harmonised. While the Labour party favoured comprehensive state second-tier provision, the Conservative party saw its statutory duty as lying in the provision of a 'residual' second-tier scheme only. The outcome was a compromise 'solution', involving greater state regulation of employers' pension schemes as a consequence of full legal integration between the state's own second-tier provision and 'contracted-out' occupational pension schemes.

The penultimate section outlines the new provisions which became effective in 1978 and comments briefly on the operation of the 'Castle' scheme to 1983.

IV The Social Security Pensions Act 1975 [26] and after

The pension provisions effective from April 1978 comprise a basic state pension and a second-tier pension which is either a SERPS or a 'contracted-out' occupational pensions.[27] Employees are contracted 'in' or 'out' of SERPS not as individuals, but by virtue of their 'employment'.[28] At the outset, employers had to make decisions about which 'employments' to contract in or out.[29] In the event, public sector employees were well-nigh universally contracted-out, while in the private sector 73% of employees (72% of men and 77% of women) were contracted-out (GA, 1981, Table 2.2, p.5).

On revised figures from the previous Government Actuary's survey it was shown that between 1975 and 1979, total membership of schemes rose by 400,000, a gain of 500,000 women (mainly in the private sector) and a net loss of 100,000 men. A loss of 200,000 men in the private sector was compensated for, to an extent, by a 100,000 male gain in the public sector (ibid., Table 2.3, p.6).

Table 13

Occupational scheme membership, 1975[30]: 1979

U.K. (Private and public sectors: estimate).

millions

	Private sector		Public sector		Total	
Employees:	1975	1979	1975	1979	1975	1979
Men	4.9	4.7	3.7	3.8	8.6	8.6
Women	1.1	1.5	1.7	1.8	2.8	3.3
Total	6.0	6.2	5.4	5.6	11.4	11.8

Source: GA (1981), Table 2.3, p.6.

Responsibility for the issue of contracting-out certificates devolved upon the Occupational Pensions Board[31] originally set up in 1973 to supervise arrangements for preserving the pension rights of 'early-leavers', to assist schemes to change their rules, or wind up, and to advise on Ministerial regulations and on questions referred by the Secretary of State.[32] Under the terms of the SSPA 1975 it deals also with 'equal access' for men and women to membership of schemes and matters arising from the implementation of the Act.

Since the Board began receiving governmental 'remits' to consider specific questions, and since the 'Castle' scheme became operational, a number of issues have emerged for public discussion, both in terms of the relationship between 'contracted-out' occupational pensions schemes and SERPS and regarding occupational provision itself. The major questioning has centred on the solvency and accountability of pension schemes, their legal status, members' participation in the running of schemes, the preservation of pension rights and the 'disappointed expectations' of scheme members, 'pensionable age' [33] and employee access to membership of schemes.

Pension fund solvency was a key issue from the outset. While discussion of the financial market operations of pension funds lies outside the scope of this study, it must be noted that some pension schemes control huge funds, the fortunes of which rise and fall with the ebbs and flows of the investment market.[34] The funds' defenders emphasise the usefulness of such investments to the economy.[35] Detractors point out that schemes went un-regulated up to 1973 'drawing their financial structure from a less responsible era' and that they can be 'inflexible and unpredictable', 'responsible to nobody except their

own trustees' (James, 1984, pp.13, 16, 21). The OPB has emphasised the necessity for adequate funding of pension schemes within an adequate legal framework (OPB, 1982, Ch.3, pp.9-15).

Pension funds have been heavily criticised in connection with the two related issues of preservation of pension rights in respect of 'early leavers'[36] and 'indexation'.[37] It is alleged that funds have, traditionally, profited from 'early leavers' without preserved pension rights, by using their non-refundable employers' contributions as a source of income to the fund from which the individual employee has, all too often, failed to benefit (James, 1984, p.11). The OPB reported on early-leavers in 1981, focussing specifically on preservation of their rights until pensionable age (OPB, 1981, S19, p.3). Their problems have been particularly acute in the private sector, since the existence of the 'transfer club' and indexation of pension benefits in the public sector makes job-changing or 'career breaks' less of a problem (ibid., Appendix 6, pp.120-21). The Board made recommendations for 'evolutionary change' so as to enhance the pension rights of 'early leavers' and revalue them over and above the required Guaranteed Minimum (ibid., S6.2, p.31; Ch.7, pp.36-42).

Indexation of pension benefits to preserve the monetary value of what are popularly called 'frozen' pensions leads on to the question of indexation of occupational pensions actually in payment. Inflation was a particular problem of the early 1970s and 1980s, eroding the value of employers' pensions. Again, public sector pensions have been protected by a system of 'indexation', the subject of a government inquiry in 1980.[38] This inquiry was appointed in response to criticisms of the effective system of inflation-proofing available to public service pensioners and, in the event, presented its findings in such a way

as to highlight the benefits of inflation-proofing in the public sector - an arrangement which, it could be inferred, private sector schemes would do well to emulate (H.M. Treasury, 1981).

The OPB issued a report on security for the rights and expectations of scheme members concerned, among other matters, with the protection of pensions in payment, noting the trend towards 'final salary' schemes during a period of inflation and addressing the extent to which existing pensioners have suffered from 'disappointed expectations' (OPB, 1982, Ch.9, pp.51-56). It urged that all concerned with occupational pensions should 'recognise a responsibility to give a measure of protection for the real value of pensions in payment' (ibid., S9.23, p.55). The report also gave further consideration to issues around disclosure of information to scheme members about the solvency of schemes and about pension rights, including suggestions for an improved system for dealing with members' complaints (ibid., Chs. 6 and 7, pp.30-40). Both this report and the Wilson Committee (1980)[39] had expressed dissatisfaction with the legal basis of occupational pension schemes in trust law, recommending a comprehensive review of laws which (see Part V of this study) have become increasingly anachronistic (ibid., Ch.8, pp.44-50).

Finally, there has been continuing concern, since the SSPA 1975 was passed, with issues of unequal access to occupational scheme membership, in view of persisting under-representation of low-paid and/or manual workers, including women and those who work for small firms.[40] In the case of women, the Act's requirement for 'equal access' has not, despite an early remit to and report from the OPB, resulted in further legislation to ensure equal status and treatment for men and women in occupational pensions schemes. It is on the position of women in

occupational scheme membership, including their under-representation and unequal access to benefits, that the remainder of this study focusses, after a retrospective view of the growth of occupational pension provision from 1939-83.(41)

V The growth of occupational pension schemes 1939-83

A considerable expansion of occupational pension provision has taken place since World War II, with the major growth occurring in the 1950s and 60s, a time of high employment and keen competition for available labour.(42)

Table 14

Male and female employees in pension schemes 1936-1979

U.K. (Private and public sectors: estimate).

millions

	Private sector		Public sector		
Year	Men	Women	Men	Women	Total
1936	1.3	0.3	0.8	0.2	2.6
1953	2.5	0.6	2.4	0.7	6.2
1956	3.5	0.8	2.9	0.8	8.0
1963	6.4	0.8	3.0	0.9	11.1
1967	6.8	1.3	3.1	1.0	12.2
1971	5.5	1.3	3.2	1.1	11.1
1975	4.9	1.1	3.7	1.7	11.4
1979	4.7	1.5	3.8	1.8	11.8

Source: GA (1981), Table 2.3, p.6.

The number of public sector members increased dramatically after the war with the creation of the National Health Service and public corporations, with an employer's pension becoming a near-universal provision for permanent, full-time public sector staff of both sexes. In the private sector, a spectacular rise in male membership was followed

by decline after 1967. Some members were transferred into the public sector, the male labour force declined due to retirements and, increasingly, due to redundancies and unemployment. From the late 1950s, successive governments have sought to foster 'partnership' between state and occupational sectors by means of strategies which have included the provision of 'second-tier' state pension schemes for that 'residue' of employees who continue to be excluded from or given limited access to occupational pension benefits.

The number of scheme members shown at any point in time gives no indication of the adequacy of their eventual pension entitlements. The average employee does best out of lengthy full-time employment in a public sector occupation where sideways or upward job changes have no effect on pension rights and transfers between public sector employments can usually be effected without undue detriment. By contrast, as James (1984, p.26) has pointed out, private sector employment within 'dying' industries has been particularly vulnerable, in pension terms, to the risks of redundancy. Small firms seldom provide pensions(GA, 1981, Table 6.1, p.28). People who change jobs, leave the labour force or belong to pension schemes which offer little revaluation of accrued pension rights are particularly likely to end up with modest pension benefits. Yet, in a sense, the system is predicated on a degree of labour turnover, not least among women and less skilled employees.

The early pension schemes were set up for male employees so as to check abuse in the public service, promote 'efficiency', attract and retain staff and enable the employer to discharge a moral obligation to 'worthyservants', originally in the absence of any state contributory pension provision. By the inter-war period, tax advantages had emerged

and some schemes were making provision for dependants, especially if death occurred during the member's service. From the second World War to the present, employers' pension schemes have continued to display certain familiar features and have familiar claims made on their behalf. Reddin (1979) and Green (1982) have pointed out the ways in which members and providers of occupational pension schemes have continued to enjoy generous tax advantages not available within the statutory pension system. Fogarty (1976, pp.106-7), among many others, has emphasised that, at best, occupational pension schemes have provided a flexible form of retirement provision, with 'good' schemes pioneering standards for others to follow.

Green (1982, pp.271-74) argues that employers' pension provision has served as a mechanism of control for management[43] and has been a strategy for 'corporate welfarism', which, by the 20th century, has changed from the paternalist to the bureaucratic mode (ibid., p.271). In the interests of 'efficiency' an employer can impose a 'normal' retirement age and set up mechanisms for 'early' retirement.[44] Until the later 1960s, when unemployment began to increase in certain sectors, occupational pension schemes were provided mainly on the initiative of management, perhaps stimulated by the life assurance companies (ibid., p.275).

Unions became seriously interested in occupational pension provision at the point where Crossman's 'abatement' principles appeared likely to affect public sector pension provision and Joseph's 'State Reserve' scheme was being suggested (Lucas, 1977, pp.4-5; TUC Annual Reports, 1969-73). Just as, after the war, employers introduced pension schemes so as to boost white-collar pay via 'deferred earnings', so the 1970-74

Conservative government's 'pay code', which exempted improvements in pension benefits from limits on pay increases, gave an incentive for unions to engage in successful pensions bargaining around 'deferred earnings' (Lucas, 1977, p.5). Since then, trades unions, encouraged by the TUC, have taken far more interest in occupational pension provision (TUC Annual Reports, 1969-83, 1984), which move has benefited 'organised' labour.

When managements initiated employers' pension schemes so as to attract and retain staff, the system operated on a basis of excluding 'secondary' workers, who, being 'insecure and expendable at times of crisis, are liable not to be in pension schemes' (Green, 1982, p.273). Women have, typically, been 'secondary' workers in the labour force. The next chapter focusses on female access to membership of occupational pension schemes from 1939-83.

Chapter 4

Employers' Pensions and the Woman Worker

I The female employee 1939-83

Before proceeding to discuss the growth of occupational pension provision from 1939 in relation to female membership of schemes, it is necessary to focus once more on female access to paid employment. The aim of this section is to chronicle some significant changes in female economic activity during this period, placing these changes in their social and demographic context, as background for discussion of the expansion of occupational pension provision for employed women. The relationship between women's occupational pension entitlements and their labour force participation is further discussed in Ch.7 as an issue of equal access, treatment and status for men and women in employers' pension schemes.

By 1939, it had become commonplace to find single women in 'white-collar' jobs, with teaching, the Civil Service (including the Post Office), nursing and a wide variety of 'office' jobs in the private sector providing the best access to occupational pension provision. Such jobs were characterised by low and/or unequal pay, with the ubiquitous 'marriage bar' effectively removing large numbers of women from the labour force on marriage, though there remained a cadre of older single women, politely classified as 'career-women'. There were also limited categories of women in 'good' manual jobs, with access to occupational pension benefits. Such women would, typically, have been working for a large, 'progressive' and relatively prosperous industrial employer and, again, would usually have been expected to give up their jobs on marriage, perhaps with the inducement of return of pension contributions,

gift-wrapped as a 'marriage gratuity'. By the thirties, a more even sex-ratio was increasing the proportion of young women in the population who were 'at risk' to marriage.

After the second World War began, there was, in due course, a massive rise in female labour force participation. 'Almost the entire population of adult women was forced into wage labour' (Summerfield, 1977, p.27) unless able to claim exemption for domestic reasons. Women not only joined or re-joined the labour force: many, by choice or compulsion, changed their occupation. Single women (unless exempt) became subject to direction of labour and some, mainly the younger ones, were conscripted into military service.(45) At the 'peak' of female economic activity in 1943, 90% of single women 18-40 and 80% of all single women of 'working age' were in industry, home defence or the forces (ILO, 1946, p.13).(46)

Married women with children under 14 and those not living apart from their husbands were usually exempt from being directed towards work of 'national importance' (Marwick, 1970, pp.292-93). It was calculated in 1943 that eight out of ten married women between 18-40 were in the forces or industry(47) (Summerfield, 1977, p.36). The married workers included those very women whose economic activity had hitherto been proscribed by the 'marriage bar'. But, in point of fact, their employment was overwhelmingly 'de jure' or 'de facto' temporary. The vast increase in the number of women civil servants by 1944,

> 'must be ascribed almost entirely to the temporary replacement by women of men on war service and to the needs of expansion being met to an abnormal degree by the recruitment of women, men being unavailable.' (RCEP, 1946, S27, p.8)

However, precedents were established by the widespread wartime labour force participation of women (including mothers of younger children), especially with regard to the creation of part-time paid work. These

precedents were to have an important influence on women's post-war economic activity patterns.

At the end of the war, the Ministry of Labour dissolved the existing consultative committee on women's employment and re-appointed a successor 'to advise on questions relating to the resettlement of women in civilian life' (ILO, 1946, p.37). Summerfield (1977, p.40) records that women were mobilised into the labour force during the war 'for the duration' and expelled from it in an orderly manner once hostilities ended. Mixed messages were then given out regarding the place of married women in paid employment (Wilson, 1980, pp.43-44). The ILO study published just after the war commented that in the UK 'there seems to be no official policy regarding women's post-war employment' (ILO, 1946, p.285) and that while, in a situation of full employment, women were being encouraged to carry on working, or indeed, return to employment, a considerable number of married women had in fact withdrawn from paid employment (ibid., p.153).

The report and detailed evidence from the Royal Commission on Equal Pay 1944-46 offers a useful perspective on attitudes of women workers and their employers at the end of the second World War. Equal pay in the public sector was the issue under consideration, but evidence came also from the private sector of employment, including banking and insurance, where men had long-established access to occupational pension provision and women had made some similar headway.

Employers typically perceived women as short-service employees providing cost-effective labour for routine and undemanding work. Arguing (unsuccessfully) for the retention of a 'marriage bar' in the Civil Service, the Treasury stated that

> 'the bar is a positive advantage as enabling a more rapid turnover of persons for whom no avenues of promotion exist' ---'the risks and inconvenience and embarrassment to the public service of endeavouring to maintain in employment women who may require considerable spells of maternity leave and whose domestic duties may restrict their mobility and their availability for the long hours of work which may be required at times of crisis and pressure'
>
> (RCEP, 1946, S476, p.156).

Banking and insurance employers in the private sector explained that 'opportunities for women were largely limited to routine clerical work and to general clerical work --- not of a highly skilled nature' (ibid., S243, p.83) because 'Women --- enter these industries largely as a temporary occupation until marriage, an event which is frequently the occasion for enforced retirement' (ibid., S244, p.83).

As often in public enquiries touching on women's paid employment, the medical experts were on hand, this time to explain some interesting biological differences in the female propensity to marry:

> 'Women have a highly developed physiological urge towards marriage and this engenders a short-term outlook with regard to training for certain skilled operations' ---
> 'Outside the industrial classes any limitation of outlook attributed to the urge for marriage is less evident'
>
> (Dr Sybil Horner, HM Inspector of Factories, ibid., Appendix X, 2, S11, p.118).

The trend which was not foreseen was the great post-war increase in the labour force participation of married women - both younger women who had not commenced childbearing and older women 'returners'. With the high marriage rates of the period, single women formed an ever diminishing pool of labour at a time when full employment was extending opportunities for women to do paid work. 'Marriage bars' relegated to the past, employers targeted married women for employment which was, increasingly, offered on a part-time basis and which, even 30

years after the war ended, was characterised as, mostly 'undemanding, ill-paid and of low status with no prospects of advancement' (Manley and Sawbridge, 1980, p.37).

As seen, the entry of women into white-collar 'pensionable' employment was closely related to the presence in the population of single women who, for reasons of necessity and/or conviction, sought to be financially self-supporting. Older women of the pre-1939 period were commonly defined as 'surplus' since the number of women in their age-group palpably exceeded that necessary to provide wives for 'available' monogamous males. Increasingly, since World War II, a changed sex-ratio produced, by contrast, a growing 'excess' of males potentially available for marriage (Rimmer, 1981, pp.12-13).

Between 1951 and 1971, following the post-war surge in marriage-rates, the trend continued upwards and the median age of first marriage in GB fell by two years to 22.6 months for women and 24.6 months for men (ibid., Table 3, p.17) since when it has risen by some months. Indeed, until recently it seemed that marriage, for women, was becoming a near-universal experience. By 1977 in England and Wales, 95% of the female age cohort born 1930-35 had been married (OPCS, 1978a, Table 4.5a, p.54). They were part of the 'homemaking as a career' generation who grew up to adulthood after the second World War at a time when women, in particular, were subjected to strong moral imperatives in the direction of marriage and family and 'marriage or career' was the choice required of the better qualified young woman (see Wilson, 1980, Ch.3). However, it was not marriage but childbearing which now typically removed women from the labour market and there was much debate in the 1950s as to the point at which a mother might, without harming her children, return to paid work, usually part-time.

The current (1983) generation of middle-aged women contains a very high proportion who have been married at least once. While marriage rates have now declined to a small extent, with more women 'postponing' marriage, this trend has been accompanied by other significant demographic changes, notably an increase in divorce and remarriage (see Rimmer, 1981, Parts 4 and 6), divorce rates having risen sharply, especially among the younger age cohorts, since the early 1970s. Widowhood, by contrast, has declined, so that among women of 'working' age in England and Wales, even in the age group 55–59, only 12.4% were widows in 1982 (OPCS, 1984b, Table 1.1, p.13). In addition there is clear evidence that an increasing number of non-married people are 'co-habiting', either as a prelude to marriage or in the interval between marriages, in the majority of cases (OPCS, 1984a, Ch.4, pp.28–29; Tables 4.1 - 4.8, pp.38–40). Other significant demographic trends in the context of female economic activity include smaller families (especially since the mid-sixties), postponement of child-bearing and 'compression' of child-bearing into a shorter period within marriage (Rimmer, 1981, p.21). Nor is child-bearing any longer the prerogative of the legally married woman.

Rimmer and Popay (1982, p.14) calculate that had married women's economic activity rates remained at their 1921 level of below 10%, there would have been some 4.36 million fewer married women in the labour force by 1981, whereas, by the early 1980s, about half of all married women were economically active. Women have formed an increasing porportion of the labour force since World War II. Until 1980 their numbers continued to grow while the number of males in employment began to fall in the mid-sixties.(48)

Table 15

Employees in employment: GB: 1921-83.

Millions

Year	Total*	Men	Women	Women as % of total
1921	17.4	12.1	5.2	30
1931	19.0	13.1	5.8	31
1951	21.0	14.2	6.6	31
1959	21.0	13.8	7.2	33
1965	22.6	14.5	8.1	36
1975	22.2	13.3	9.0	40
1978	22.2	13.1	9.1	41
1979	22.5	13.1	9.4	42
1980	22.4	13.0	9.4	42
1981	21.3	12.2	9.0	42
1982	20.9	11.9	9.0	43
1983	20.7	11.7	8.9	43

Source: 1921-78, Rimmer and Popay (1982)

1979 June, Employment Gazette, (July 1983, Table 1.1, p.57)

1980-83 June, (Employment Gazette, July 1984, Table 1.1, p.S.10).

* Rounded totals

Female economic activity rates and the location of women within the occupational structure are crucial variables in relation to female access to employers' pension provision. They merit brief discussion here and are the subject of later detailed comment (Ch.7) on the continuing under-representation of women in membership of schemes and their differential access to benefits as compared with male employees.

Firstly, while large numbers of women have, since the war, become economically active for a much larger proportion of their 'working

years' (Martin and Roberts, 1984, p.122) female labour force participation rates have, across the board, been much lower than male rates and display considerable variation as between age groups (RCDIW, 1978, Tables M3 and M5, pp.256-57; OPCS, 1984a, Table 6.8, p.107). Married women throughout the post-war period have been less likely to be in paid employment than their non-married contemporaries (especially single women), but 'most of the marital status differential is more appropriately viewed as an effect of childbearing' (Joshi and Owen, 1981, p.4). It is the presence of young children which accounts for the consistent absence from the labour force of a high proportion of young women in the 25-34 age group. It is motherhood rather than marriage which is the crucial factor in determining the number of hours worked (Rimmer and Popay, 1982, pp.49-50). It is married women and, especially, mothers of younger children, who display the greatest propensity to work part-time (ibid., pp.21 and 49, Robertson and Briggs, 1979).

Furthermore, since the second World War, women have continued to 'do those jobs with which they have traditionally been associated, semi and unskilled manual and clerical work' (Manley and Sawbridge, p.36). The more highly educated and professionally trained women have likewise tended to remain clustered in typical 'service' occupations such as teaching, social work and the professions ancillary to medicine (Silverstone and Ward, 1980), a tendency but lately beginning to be eroded. As Hakim has documented, women have always experienced a considerable degree of occupational segregation, both vertical and horizontal, being employed (other than exceptionally) in a narrow range of occupations and, in the case of heirarchical occupations, clustered on the lower rungs of the 'career ladder' (Hakim, 1979). In addition, a high proportion

of women, after marriage, have spent much or all of their subsequent careers in part-time employment, especially in the service sector where 80% of the increase in jobs for women between 1959-1976 was accounted for by part-time work, notably in public sector health and education (Manley and Sawbridge,1980, pp.30-31).

The major change in women's employment from 1939-83 has been the removal of the 'marriage bar' and an emerging pattern of near-universal full-time labour force participation by women up to the point of marriage and usually beyond it. Such women are now 'available for work' even if, at a time of recession, they are unable to find it. The characteristic point at which employers have come to expect their female employees to leave the labour force is at the birth of the first child, with a part-time return to work (sometimes at a lower level than previously) once the youngest child goes to school full-time (Martin and Roberts, 1984, pp.13-14). Young women employees are now perceived by their employers not so much as short-term employees who will leave the labour force within a short time, in order to marry, but as short-to-medium term employees who may well return for another lengthy period of, typically, part-time service. Marriage is now the event which characteristically confers on women added domestic responsibilities, which may affect paid employment. It is motherhood which actually removes women from the labour market.

Banking is an example of employment which has capitalised on the availability of young female labour on a relatively short time-span by operating personnel policies which ensure that all but a small minority of the most ambitious and assertive young women leave the employment for good, to be replaced by younger women (Crompton and Jones, 1984, Ch.4). Nor is motherhood the sole cause of women leaving the labour

market: responsibility for the care of elderly parent or ailing husbands is a characteristic reason for the exit of older middle aged women from paid employment and, at any age, a husband's job move can mean a wife's unemployment, not least, in the 1980s, if she is skilled.

The pattern of female economic activity which has emerged since World War II is known as the 'bi-modal' career and up to the present, it has come to constitute the 'normal' mode of female labour force participation - normal in the sense that it is both typical and socially approved. For, as will be seen in Ch.7, this pattern arises from a traditional and continuing domestic division of labour in a society which promotes marriage[49] and assigns to men (as husbands or potential husbands) the role of full-time paid 'breadwinner' and assigns to women (as actual or potential wives and mothers), primary responsibility for the unpaid work of the home, including child-rearing and care of handicapped or frail adult relatives.

Throughout the period 1939-83, marriage (and, for younger women, motherhood) has tended to be seen both by employers and the providers of pension schemes as the primary goal and major life-focus of all women. Evidence is becoming available to prove that not all women, and especially younger women, conform to this stereotype (see Martin and Roberts, 1984, Ch.6), one from which a minority of women always have deviated during the period in question. One factor which has continued to construct wives as the economic dependants of their husbands has been the continuing requirement for husbands, under common and public law, to maintain their wives (Cretney, 1979, pp.271-74). With a woman's first duty being construed throughout the period as owed to her husband and family, rather than to her employer, paid work for women has been constructed as 'fitting around' their more important

domestic duties (see Martin and Roberts, 1984, Ch.12). Throughout the post-war years until the 'inflationary' period of the 1970s, married women's earnings were characteristically defined as 'pin money' or 'extras' - a peripheral input to the family income. Since the 1970s inflation and then rising unemployment have helped to construct married women's earnings as a much more crucial part of the household income (Elias, 1984).

Furthermore, during the 1970s and 80s other influences came to bear on the way in which women were regarded, and regarded themselves, as paid workers. In 1975, both the Equal Pay Act 1970 and the Sex Discrimination Act 1975 became law. While neither has revolutionised the position of women in paid employment, these Acts have brought issues of women's pay and conditions of employment, including access to occupational pension benefits (not covered by either Act) into the public arena. The same can be said for the Employment Protection Act 1975, with its statutory requirement that employers give maternity leave and, other than exceptionally, retain mothers in their jobs if they so wish.

Recent 'equal opportunities' initiatives and legal decisions from the European Community have profoundly affected the position of women both with regard to paid employment and access to occupational pension benefits (see Ch.5). In addition, a steep rise in the divorce rate and a recent challenge to the right of ex-wives to life-long maintenance from their former husbands, have also brought attention to bear on women's capacities and, more importantly, opportunities to be financially self-supporting, both inside and outside of marriage. These same forces have brought to public attention certain issues concerning women's abilities and opportunities to generate income and capital for old age, including access to occupational pension benefits.

II Women as members of occupational pension schemes

a) The 'second sex' and the 'two nations': 1939-59

As previously noted, women entrants to the Civil Service in the 1870s were incorporated into occupational pension schemes already established for men. Subsequently, to 1939, female access to occupational pension provision spread to other public sector occupations such as teaching and nursing, which became popular occupational choices for women. In addition, women in the 'better' white-collar administrative and clerical jobs in the private sector became eligible for membership of occupational pension schemes. These were sometimes set up specifically for women and doubled as 'savings'/marriage gratuity schemes. Other employers preferred to reward selected long-serving female employees with some version of an unfunded pension. Less usually, a woman in a 'good' manual job in industry would be eligible for an employer's pension. While, during World War II, there was a tremendous rise in female economic activity and the 'marriage bar' was universally suspended, much of this employment was temporary and it is questionable whether any substantial gains were made with regard to female access to membership of occupational pension schemes.

At the end of the war, employers were viewing the typical female employee as a short-service worker who would provide a cost-effective source of labour for routine and undemanding work. The minority of single women who became long-service employees had, pre-war, been defined as useful supervisors of the younger women, and likewise cost-effective, since women, however senior, were usually paid less than a man for like or similar work. Public sector women, in particular, had campaigned and organised around the issue of 'equal pay' for decades before a

Royal Commission was set up in 1944 (Martindale, 1939; Partington, 1976).[50] They were never slow to point out that unequal pay led to unequal pensions. For while it was true that the Civil Service pensions which tended to be used as a model for other public sector schemes were, at that time, 'the same' for men and women in that both could qualify for a pension and a lump sum on the same 'formula', women's lower pay resulted in lower pensions. As the National Association of Women Civil Servants put it:

> 'although men and women have the same retiring age and the amount of pension is in part a function of length of service (in which respect there is no sex discrimination) it is also in part determined by the salary in the final years of employment and to that extent involves discrimination against women.'
>
> (RCEP, 1946, S48, p.14)

Explanations for the continuing existence of unequal pay were varied. Women's pay was set at 'the market point to attract female staff' (ibid., S336, p.107). While unequal pay might represent 'the prejudices of a previous age embodied in the customs and traditions of the past' (ibid., S337, pp.107-08), various witnesses to the Royal Commission emphasised that there was less demand for the economic services of women who, in any case, usually regarded paid employment as an 'incidental' stage in their lives, retired from it at an early age in order to marry and did not usually return. Thus women had a lower 'career' value (S348-349, p.112). It was also explained that, in general, not only did most women support only themselves, but some single women employees were subsidised from home: most were looking forward 'to being supported in the relatively near future' (S362, p117). Roy Harrod, an economist, argued that there was a social purpose in the relative levels of men's and women's pay 'to secure that motherhood as a vocation is not too

unattractive financially compared with work in the professions, industry or trade' (S366, p.119).

The long-serving female employees who gave evidence before the Royal Commission were unimpressed by their low pay and inferior conditions of service. Evidence was presented linking low pay to female poverty in old age. Unequal pay made it more difficult for women, usually in low-ranking jobs, to save for old age. Unlike an elderly widow (or even an elderly married man) with children in a position to offer financial support, 'The spinster who finds it difficult to live in reasonable comfort on her pension can make no comparable claim on her relatives (if she has any) who are still earning.' (Ibid., S412, p.135) It was also argued by various witnesses that single women commonly contributed to the support of elderly parents or paid towards the education of siblings, sometimes to 'free' a brother for the financial responsibilities of marriage (ibid., Minutes of Evidence, 23/3/1945, p.87).(51)

However, in the mid 1940's the problems of single women employees were peripheral to those who made policy in the pensions field. The pro-natalist sentiments of Harrod found their echo in the Beveridge Report (1942) which treated married women, especially those of childbearing age, as the key group for consideration. The Beveridge Report not only provided the blueprint for the treatment of women in the post-war scheme but undoubtedly influenced and reinforced the attitudes of providers of employers' pension schemes as regards the treatment of female employees. Beveridge accorded to single women the status of 'honorary men' in the sense that they were to be entitled to equal 'personal' retirement pensions for lower flat-rate contributions. Married women, however, were given a special NI status in the Beveridge Report, which was in due course reflected in the 1946 NI provisions.

These arrangements were designed to enable married women to desist from paid work 'In the national interest -- as soon as possible on pregnancy' and to ensure 'that mothers should be under no financial pressure to return to work' since 'In the next thirty years housewives as mothers have important work to do in ensuring the continuance of the human race.' (Beveridge, 1942, S117, p.53)

The contribution rules gave married women the opportunity to opt out of paying Class I contributions towards (among other benefits) a retirement pension, on the grounds that their employment was likely to be of an intermittent nature. But in order to qualify for a retirement pension based on her own contributions, a married woman had to pass the 'half-test', that is, to contribute as a paid employee for at least half of her married life - a particularly stringent test for the woman who married and/or had her family later in life. If she failed the test, the whole of her previous record was lost. Since all married women with adequately insured surviving husbands would in due course qualify for a 'dependent wife's pension' at 60% of the 'single rate' and were eligible for a widow's pension if over 50 when their husbands died (or, if widowed earlier, when the last child was no longer deemed 'dependent'), most married women 'opted out'. Full contributions, effectively, secured a pension at 60 which, for a married woman was of equal value to that of a full single woman's pension only to the point where her insured husband retired, when it represented only 40% of the single rate and, in subsequent widowhood - nothing.

Most women on marriage did not consider the 'gamble' of continuing to pay full Class I contributions worth embarking upon. As young married women they expected to leave the paid work-place for an indefinite period - in the climate of the 1940s and 50s this might extend at least

until the last child was in secondary school. The upshot of these rules was that a high proportion of economically active women both decided and were advised (or pressured) to opt to be excused payment of NI contributions in their own right (Groves, 1983, pp.43-49).

These regulations were among the factors which helped to construct women, once married, as 'intermittent' employees, financially dependent on husbands who were, in law required to maintain them. The designation of married female earnings as 'extras', designed for immediate consumption on other than 'basic' household expenses, preserved the image of husbands as 'good providers'. The NI regulations may also have helped to construct married women as a group who were not, and did not have to be, 'interested' in retirement pensions, since wives could properly expect to be 'provided for' in old age.(52)

It seems likely that the providers of employers' pension schemes were influenced in their treatment of female employees by the nature of these NI arrangements. Furthermore, a society's social security provisions incorporate values and assumptions which are part of the wider values of society (Land, 1976, p.108). As previously described, the model for a 'good' employer's pension scheme in the post-war years was one which improved its death benefits so that larger lump sum and/or widows' pensions were made available to replace, in part, the income of a male 'breadwinner' who died in service or retirement. The 'good' occupational pension scheme endorsed the traditional division of domestic labour, and by endorsing it, helped to sustain it.

The Phillips Committee (1954) noted the increasing number of women in the labour force, including a new phenomenon, the 'married woman returner', typically working part-time. It felt that a growing elderly

population would 'impose some check on these tendencies by obliging middle-aged daughters to stay at home with their parents' (H.M.Treasury, 1954a, S96, p.25). Such women, married or single, were defined as 'available' carers, liable, if married, to a second interruption of paid employment. Yet the Phillips Committee appears to have viewed the position of women with regard to occupational pension provision as unproblematic. No link was made between 'caring' as a full-time occupation incompatible with paid employment and involving possible loss of pension rights, even in respect of single women carers. Women were mentioned in relation to occupational pension provision only in the context of sex-differential 'pensionable ages' (ibid., S243-245, pp.65-66).

The Institute of Actuaries report (Bacon et.al., 1954) illustrates attitudes towards women in employment and in relation to employers' pension provision. Discussing the necessity for increased economic productivity in Britain, it noted that, with single women's economic activity rates already very high, it was married women who constituted the pool of untapped female labour. Yet harmful social consequences might ensue from mobilising married women into the labour force in greater numbers - 'it might have a bad effect on family life -- and -- reduce the number of births' (ibid., p.212). The actuaries, seemingly an entirely male body, gave no thought to increasing female access to occupational pension scheme membership, being far more concerned with the issue of widows' benefits (ibid., p.245).

The Institute of Actuaries estimated that 1,301,000 women were members of occupational pension schemes as compared with 4,960,000 men. Slightly over half the women were in public sector employment,

with the biggest contingent of 260,000 being employed by the National Health Service (ibid., p.120). The first Government Actuary's survey (1956) showed, for private scheme membership only, 830,000 women members as compared with 3,470,000 men. Of all the women who were working for employers with pension schemes, 34% of salaried and 23% of waged women had access to a scheme, as compared with 71% and 38% of salaried and waged men (GA, 1958, S13, p.4).

Durham (1956), in his handbook for private sector pension scheme administrators surveyed the practices of 'a representative cross-section' of firms in membership of the Industrial Welfare Society. He found that most admitted women to schemes, though usually at a later age than men, commonly 25 or 30, as against 21. 'A few' excluded all women or married women. In addition, some schemes gave lower benefits to women for the same level of contribution as men, because of greater longevity and earlier retirement. Also, it was customary to exclude women from death and disability benefits, which seemed 'hardly justified considering the number of working women who have dependents' (Durham, 1956, p.20).

Labour's plan for National Superannuation, as discussed, was intended to provide substantial alternative and complementary provision to the occupational sector. As part of this strategy, it promised women (a disadvantaged group as regards employers' superannuation schemes) 'equal rights' with men, accompanied by an equal requirement to pay earnings-related contributions, regardless of marital status. Women were promised a guaranteed minimum basic pension, equivalent in value to the existing state 'dependent wife's' retirement pension, in recognition of married women's characteristic period of absence from the labour force. Close

reading of the document, however, reveals this 'married women's' concession to be, in reality, a universal 'guaranteed minimum pension' to be made available to all adults over pensionable age (The Labour Party, 1957, p.45). More interesting in this context is the proposal for a redistributive formula affecting the earnings-related component of the eventual retirement pension. This arrangement was designed to favour both women and manual workers, since pensions were to be calculated on 1/120th of annual earnings before the age of 25 and between the ages of 45-65 (the new eventual pensionable age for all) and on 1/240th of annual earnings between 25-44 (ibid., p.63).

The National Superannuation plan did not address the question of female access to occupational pension provision. Nor did the Conservative White Paper (1958) which proposed that the 'married women's option' should continue in the National Insurance scheme but that all employed women should be required to contribute in full to the proposed graduated pension scheme. Women would in fact be required to pay more for a graduated pension of the same value as a man's, since they lived longer and could draw their pension five years earlier, after a shorter 'contributing' life (MPNI, 1958, S37, p.11). Given employers' rules regarding compulsory retirement on reaching pensionable age, this shorter working life did not in fact necessarily arise from choice.

The 1959 Graduated Pension Scheme is noteworthy in the context of female access to occupational pension provision in that the Parliamentary debates allowed interested M.P.s to draw attention to the under-representation of women in employers' pension schemes. While most of the discussion about women and such schemes related to the treatment of widows (for whom 'contracted-out' employers were not to be required to make provision), G R Reynolds (Lab.) raised the plight of the 7 million people who would

not benefit from the proposed scheme because they earned less than the £9 minimum weekly earnings required for inclusion. Sir Keith Joseph (Cons.) replied that 4¾ were women. Harold Finch (Lab.) criticised Sir Keith for discounting the needs of women, whereupon Sir Keith claimed to have said married women (which he had not) and asserted that they were part-time. Finch answered that 'The very section of the community which needs a more adequate pension is being left out', noting the presence of low-paid men, dismissed by Joseph as young men just beginning to earn. Other speakers emphasised that too many women, without access to occupational pension provision, were also in danger of being left out of the Graduated Pension Scheme. Meanwhile providers of employers' pensions could pick and choose just which employees to contract in and out, saying 'None of my women workers will be in my scheme' (H of C, Deb.606, Cols.818-905, 9/6/1959).

It was in Standing Committee that the issue of poor female access to occupational pension provision got its best airing. After Richard Crossman (Lab.) took up the cause of low-paid workers facing exclusion from both graduated and employers' pension schemes, Miss Herbison (Lab.) took on Miss Pitt (Cons.) for referring to 'the man on the shop floor' when 70% of all women were not in employers' schemes. Miss Pitt replied,

> 'As for the women, certainly I believe in any developments which help women, but we have to remember the practical point that a large number of women marry and are not so vitally interested in such things as are the men'
>
> (HofC. 1958-9, col. 32).

Miss Herbison was tenacious in promoting the cause of women excluded from employers' schemes, claiming that the 'better' schemes catered mainly for professional women. As a colleague observed, 'Employers won't put themselves out to provide good schemes for women.' (Ibid, col. 1025).

Whereas in the later 1950s there were about 7 million women in the G B work force (Table 15), the Government Actuary's 1956 survey shows that in G B and Northern Ireland, about 3 million were working for firms with occupational pension schemes and 830,000 were in schemes. There was a particular disparity between the access of salaried women (at 34%) and salaried men (at 71%) (G A., 1958, S13, p.4). The 800,000 female public sector scheme membership in 1956 (G A , 1981, Table 2.2, p.6) was a consequence of policies which gave full-time permanent employees wider access to scheme membership.

The growth of occupational pension provision in the post-war period rested to a considerable extent on tax advantages and the employers' perceived need to attract and retain staff. In addition there was a tradition of employer benevolence which, as Green (1982, p.269) argues, 'helps to explain why the state has always been in the forefront of providing pensions for its own employees since, for political reasons, it liked to be seen as a good employer'. Employers' pension schemes were 'efficient' in that they permitted the oldest employees to be retired on a more comfortable income, generated by deferred earnings, than would be provided by the state retirement pension alone.

In examining the position of women, as compared with men, during this post-war period, it can be remarked, firstly, that women, with their typically lower earnings, would certainly have attracted less tax relief on their occupational pension contributions than their male colleagues, especially until 'equal pay' (in the public sector only) was introduced over a period of seven years in the 1950s. Furthermore, employers appear to have been no more anxious to retain the services of female employees as individuals than had been the case in the late 19th century. What employers wanted was access to an available pool of cheap, competent female labour, with a rapid turnover. In fact, the employers began to fish, simultaneously, in two pools.

In the first pool were the young unmarried or newly married women, defined by employers as cheap labour not likely to need, other than exceptionally, an occupational pension on retirement. It was customary for young women who were in occupational schemes to take out their employee pension contributions on leaving their employment.(53) In the case of better-paid and qualified women, with a tendency to marry a little later than average, several years' employers' contributions might remain to subsidise the pension fund in the future. It was unusual for employees to be allowed to withdraw any but employee contributions, without interest, as Durham (1956, p.39) illustrates with regard to the private sector. Thus, pension funds benefited from accrued contributions made in respect of female 'early-leavers' (Davis and Neale, 1969, p.21). It was in the employer's interest to attract young women for cost-effective short-term service only, if possible without incurring the cost of occupational pension provision. This could be done in the private sector by closing and severely limiting female access to 'career grades' in a particular employment. In the public sector, by contrast, full-time employees in established white-collar employment usually had a right to belong to an occupational pension scheme.

The second pool of available labour consisted of 'married women returners' who accepted part-time employment in increasing numbers. Such women constituted a particularly cost-effective source of labour for whom access to occupational pension provision was almost never provided, in either private or public sector employment. 'Returners' were deemed to be 'secondary' workers with 'secondary' incomes, financially dependent on their husbands.

Where employers did offer membership of occupational pension schemes to women, it was possible to ensure that in the interests of 'efficiency', long-serving female employees left the work force at an earlier age

than men. By setting the 'normal' compulsory retirement age for women at 60 - 'pensionable age' under National Insurance, women could be retired five years earlier than their male colleagues. Some could be enabled or required to retire in their fifties if no longer 'efficient', through strategies of 'early retirement' financed by membership of the employers' pension scheme. Targets for such arrangements were 'manual' women who had 'slowed down' or women caring for sick husbands or elderly relatives (Davis and Neale, 1969, pp.13, 19).

In a word, occupational pension schemes had not been provided in the first place with the needs of women in mind. After the Second World War, with an increasing number of women entering and re-entering but much less usually remaining in the labour force, employers sought, where possible, to avoid offering pension scheme membership to women. Where offered, employers used such 'retirement' provision to facilitate and induce the exit of female employees from the work force at an earlier age than men.

b) 1959-69: Whose pensions for prosperity?

An interesting perspective on the type of advice given to the 'pensions industry' in the 1960s regarding the treatment of women employees in pension schemes, is to be found in the first of a series of well established texts written for pension scheme administrators.(54) Pilch and Wood (1960) addressed the question in unusual detail in the context of cost-effectiveness in the administration of private sector schemes.

Firstly, the authors argue that an occupational pension scheme is a means to 'attract and retain the right type of employee in service'. While young 'family men' are normally uninterested in retirement pensions, they will succumb to the lure of good benefits for death in service (Pilch and Wood, 1960, p.41). However, a badly designed scheme may be worse than no scheme at all ,

> 'One employer, for example, having installed what he regarded as a generous scheme to cover every member of his staff, complained that he found it even harder to get shorthand-typists than before. In view of the facts, that the scheme was contributory, and that few of the young girls who joined it had their eye on any goal more distant than marriage, it was hardly surprising that they regarded the compulsory contributions as merely another deduction from pay, without any thoughts for the benefits provided from the scheme.'
>
> (Ibid., p.41)

This anecdote is followed by an example of a firm providing an 'unfunded' pension scheme for women staff, due to the high turnover of young women leaving to get married. A 'funded' scheme would have been uneconomic, since few women would remain in the scheme until retirement. Also, few would have dependants or need life insurance. 'At the same time, the directors did not want female staff to feel neglected when news of the pension scheme for male employees was released' 'Reassurance was needed for older women'. The women were sent a letter.

> Dear Miss Bloggs,
>
> 'After careful consideration, the directors have decided to introduce a pension scheme for male employees. For technical reasons, it has been considered best for female staff to be excluded from the scheme, but the directors want you to know that it is the intention of the company to provide you with a non-commutable and non-assignable life pension if you remain in our employment until 60, based on salary in the last five years'
>
> (ibid,, p.80).

This offer, as analysed by Pilch and Wood, requires only a small reserve for its operation and is a flexible and cost-effective way of dealing with that small minority of women who prove to be long-service employees. This is not, as fairly pointed out, a 'good' pension from the employee's point of view, since, for the pension to be paid at all, on this 'unfunded' basis, the company must remain prosperous and, indeed, remain in business. It is not as secure an arrangement as the 'insured' pension scheme provided for men: no tax relief is due until the pension is paid and there is an absence of insured death benefit (ibid.). In other words, it is a second-class pension arrangement for women. Not for nothing do Pilch and Wood raise the issue of female access to pension schemes

in a chapter headed 'Some Special Problems', returning later to devote three pages to 'Female Employees' in a chapter entitled 'More Special Problems'.

Women employees are defined as the cause of 'special difficulties' with regard to employers' pensions, due to the short term 'temporary' nature of their employment, and the fact that they regard such paid work as 'no more than a stepping-stone to marriage' (ibid., p.139). Moreover these 'girls' are by 1960 becoming less predictable, since 'Many will leave as soon as they get married, others when the first child arrives.' (Ibid.) There is even a rising phenomenon known as the 'married woman returner' who has apparently been traditional in some industries. It is not, however, suggested that she should be admitted to, or re-established in, an employer's pension scheme. The only real purpose of occupational pension provision for women is 'to secure the orderly retirement of those who do remain with the employer until normal retirement date' (ibid.), preferably by means of an unfunded scheme.

If 'valid reasons' exist for providing a funded scheme, there must be 'fairly stringent' age and service qualifications for female membership. Women should be over 30 and under 55 on entry, with a minimum of five years' service. There should be little or no life insurance protection. Reference is made to the higher cost of purchasing a female pension than one for a male of the same age (ibid., p.140), a situation 'aggravated by the tendency to retire women at the earlier age of 60' due to the lower pensionable age in the NI scheme. Pilch and Wood assert that the annual cost of a pension at 60 for a woman is 50% higher than for a man of 65, not mentioning that the woman is likely to be earning a good deal less than her long-serving male colleague, he being likely to have secured promotion.

Pilch and Wood (1960) found it 'difficult to imagine any scheme which is likely to prove satisfactory as an incentive to attract and retain the services of female employees' since pension benefits in general were not attractive to the 'under 40s, women had few dependents and they were likely to be deterred by a contributory scheme' (ibid.). By implication, women were not earning a 'household' income needing eventual replacement on retirement, elderly parents were better off under post-war NI provision and married women were not responsible for maintaining themselves or dependants. The only type of pension scheme which might 'conceivably hold some attraction for a girl ... is the marriage dowry benefit (usually at the rate of one month's salary for each year worked up to twelve years maximum)'[55] - a 'sentimentally attractive idea' of questionable worth. Such a 'dowry' could only act as an incentive to marriage if such were needed. Employer interest would be better served 'in the majority of cases if the girls did not leave in order to get married but continued working' (ibid.).

It does not seem to have occurred to such commentators that there might be a link between the rapid labour turn-over of young women in a situation of full employment and personnel policies which carefully defined them as transient staff, confined to routine work outside the type of 'career path' offered to white-collar males. For it is white-collar female employees which Pilch and Wood prove to be discussing: their 'problematic' fast labour turnover is equated with the comings and goings of (male) manual workers, a group equally difficult to corral into pension schemes (ibid., p.142).

In the light of these attitudes it is not surprising to find that the GA's second survey (1963) estimated that there were only 800,000 women in membership of occupational pension schemes in the private sector, as compared with 6,400,000 men. The proportion of women in public

sector schemes was much higher, with 900,000 women to 3 million men (GA, 1966, Table 1, p.7). In the private sector there were 500,000 non-manual women, representing 18% of the total non-manual private scheme membership, and 300,000 manual women, representing 8% of the manual workers (ibid., Table 7, p.11). In terms of scheme membership, 40% of non-manual women were covered (80% men) in the private sector, and 15% of manual women (55% men). In the public sector, 80% of non-manual women (90% men) were covered, and 15% of non-manual women compared with 65% men (ibid., Table 9, p.12). The Government Actuary's report attributes the apparent decline in provision for manual women since 1956 to the introduction of the National Insurance Graduated Pension Scheme (ibid., p.12).

The GA's report shows that in 1963 an estimated 140,000 women were already receiving public sector occupational pensions as compared with 820,000 men. 90,000 women were receiving private sector pensions, as compared with 460,000 men. The majority of these pensioners, 4 out of 5, were in 'non-insured' schemes (ibid., Table 10, p.13) with 74% receiving less than £3 per week and 25% of the total were getting less than £1 per week. A mere 7% were getting more than £7 (ibid., Table 14, p.20). This evidence corroborated the findings of research (undertaken between 1959-64) showing women as the poorest of the elderly, one reason being that few had access to employers' pension provision. Cole and Utting (1962, pp.56-57) found that in 1959-60 only 7% of women in their sample as opposed to 38% of men, had occupational pensions, mainly women who had been in teaching or the Civil Service. Townsend and Wedderburn (1965, pp.101-102) found that in 1965 only 16% of women of 65-69 and 7% of women of 75 plus had any sort of occupational pension provision, as compared with 45% to 38% of 'couples'. Among the single women in the sample, 18% had pensions as compared with 9% of widows.

Townsend and Wedderburn recorded the single women, mostly with a substantial record of paid employment, as much worse off than men (ibid., p.109). The MPNI (1966) surveying the financial circumstances of pensioners in 1963/64 found only 40,000 'wives' with occupational pensions, as compared with 880,000 'men and women' (S40, p.14). Occupational pensions were being paid to only 1 in 7 of single women, 2 out of 5 single men, and 1 in 2 of the married couples (ibid., S32, p.11).

Thus in the mid-sixties, it was clearly demonstrable that single women were greatly under-represented among current occupational pensioners. Married women were even more notable for their absence, due to patterns of economic activity and employers' personnel and pension scheme practices already discussed. However, by the mid-sixties there were married women, especially in the public sector, in full-time pensionable employment, qualifying for eventual receipt of occupational retirement pension benefits. Once more it is the perceptive Rhodes, in his study of public sector pensions, who briefly identified and commented upon the increasing labour force participation of women as significant in the context of employers' pension provision:

> 'If this trend continues, there will be a need to assess what effect it will have on pension provision; whether, for example, married women are likely to look more towards their own employment to provide them with a pension, or at least to provide a supplementary pension to any earned by their husbands.'
>
> (Rhodes, 1965, pp.243- 44)

The thinking of Pilch and Wood (1964) on married women had not advanced so far. Even in 1967, they were still advising that it was 'virtually impossible to treat men and women alike for pension purposes' (Pilch and Wood, 1967, pp.26-27). Under a section laconically entitled 'Sex', the authors assert that, owing to the NI pensionable age and the differential patterns of female employment, there are 'powerful arguments against the inclusion of women in occupational pension schemes at all.' (Ibid., p.27) It is a 'small minority' who remain unmarried and stay with

the same employer until retirement age. By 1967 the authors, aware of 'married women returners', state that 'even if they subsequently re-enter employment' it is likely to be 'on a different footing', i.e. part-time or in a different type of employment' (ibid.). The inference is that the married woman is a secondary worker, possibly in a less responsible job than she was before she took her 'career break'. This time round the authors are not as enthusiastic as they once were about unfunded pension provision for the deviant minority of single women. It is pointed out that their need for adequate retirement pension provision is 'just as great if not greater as for men' (ibid.). Thus, there are good grounds for admitting women to the 'men's' schemes provided that more stringent entry qualifications are applied to women. This cuts out 'wasteful administrative work associated with the inclusion of large numbers of female employees who are likely to leave within a few years for reasons unconnected with the pension plan' (ibid.).

By 1967, as the GAs third survey showed, there were 2,300,000 women in membership of private occupational schemes, as compared with 6,800,000 men: in the public sector there were 1 million women as compared with 2,100,000 men (GA, 1968, Table 3, p.8). In the private sector 800,000 non-manual women were covered by employers' pension schemes, representing 25% of the total non-manual private scheme membership, and 500,000 manual women representing 14% of all manual workers included (ibid.). 40% of all non-manual female private sector employees were covered by schemes as against 75% of the men: 15% of all manual women were covered as against 60% of manual men. In the public sector, 70% of all non-manual women were in schemes (90% of men) and 15% of non-manual women as compared to 65% of men (ibid., Table 4, p.9). The report pointed out that 'although 85% of the firms employ both men and women,

only 50% of their schemes incorporate both sexes, and women are frequently excluded' (ibid., p.9).

'Manual' women, with their typically low earnings, were most at risk to being excluded from schemes in both public and private sector employment. Even the proportion of non-manual women covered in public sector employment had seemingly dropped since 1963, almost certainly due to the diminishing pool of full-time single women employees. Nonetheless, there were far more women in schemes, especially private sector schemes, there being more women in paid employment. However, as indicated in the previous chapter, women were proportionately more likely than men to be excluded from membership of employers' schemes for various reasons cited in the GA's 1967 survey (1968, S6, p.11), especially part-time working.

No information was given by the GA on occupational pensioners in 1967, though Townsend's poverty survey in 1968-69 sampled pensioners in the U.K.[56] He found 16% of non-manual single women and 4% of manual single women with employers' pensions. Townsend compared these findings with 'married' households where the husband and/or, less usually, the wife, had an occupational pension. 45% of non-manual and 30% of manual 'married' households were in receipt of occupational pension income (Townsend, 1979, Table 23.12, p.810). A steady 'across the board' 38% of men were receiving employers' pensions at under 70, 70-79 and 80 plus. By contrast, women (including widows) were represented at 23% in the under 70 group, 18% in the 70-79 group and 10% in the 80 plus group (ibid., Table A.96, p.1064). Clearly there had been an improvement, if slight, in female access whether as scheme members or 'survivors', to occupational pension benefits, though the amounts in 1969-70 were small. Only 11% of all women under 70 were receiving more than £200 per year (20% men): 6% of women over 70 (16% of men) were in receipt of such a pension (ibid., Table A.97, p.1064). In

the lower income ranges, women appeared to do slightly better than men, which suggests that the male figures may have been 'skewed' by the presence of male 'manuals' on low pensions, while the females included a higher proportion of 'white-collar' workers with pensions from 'professional' occupations and widows of salaried men from the 'better' pension schemes which provided death benefits.

By the late 1960s there were signs that, particularly in the private sector, where female access rested on the individual employers' decision, this was emerging on an issue of personnel practice, not un-related to the appearance of the Labour White Paper (1969). The NAPF decided to feature a 'Pensions for Women' session at their annual conference in May 1969, though being unable to find any woman speaker from the 'pensions industry' they had to be content with a woman personnel officer from Boots and a sympathetic male pensions officer from Imperial Tobacco! (Davis and Neale, 1969, p.31) It was there pointed out that most pension 'texts' gave 2 or 3 pages to women (ibid., p.11). Reference was made in the discussion to mechanisms which enabled 'married women returners' to buy back or buy in past service and to schemes which made membership compulsory for married women. More typically, married women were given the option of joining a pension scheme on the assumption that many husbands would already have made arrangements to 'provide for' their wives (ibid., pp.14-15). It was noted that the state pension usually comprised a far higher proportion of a female's income in old age (ibid., p.15) as compared with that of a man, and that women tended to be left in the Graduated Pension Scheme rather than being provided with access to an employers' pension scheme (ibid., p.16). Financially speaking, it was not worth an employer's while to contract them out.

The point was also made that part-time women were not provided for in employers' pension schemes and suggestions were offered for

a formula whereby such provision might be made in the case of married women 'returners' with previous service (ibid.). Widowers' pensions were deemed an unnecessary expense. Speakers backed the idea of giving women 'retrospective' pension rights if, say, they stayed with an employer for 10 years (ibid., p.19). This discussion was almost certainly taking place among the 'enlightened' but it serves to illustrate the fact that the access of women to occupational pension schemes was coming on to the agenda for discussion by occupational pensions administrators.

Thus in the 1960s, occupational pension provision showed a modest growth in respect of women. But while full-time permanent female employees in the public sector had high access to scheme membership, there was still a marked reluctance to include women, especially younger women, in private sector schemes. The vaunted 'flexibility' of employers' schemes included their facility for excluding women. More attention was being given (see Ch.8) to the needs of widows. Indeed, research findings revealing the extent of female poverty in old age were used to advance the case for improved widows' benefits. With single women patently forming an increasingly small minority of the adult female population and with the 'bi-modal' employment career of married women becoming more widely recognised, policy makers in both the statutory and occupational pension sectors appear to have been far more concerned with the situation of women as potential widows of male employees than as 'employed' persons needing to generate a replacement income in their own right for earnings interrupted by death or retirement.

c) The 'pensions debate' and the female employee 1969-75

During the period of the 'pensions debate' women's issues were coming more into the public arena and questions relating to female access to retirement pension provision likewise became more prominent.

The 1969 'Crossman' plan promised a 'new deal' for women, requiring contributions on the same basis as men (DHSS, 1969, S72-74, pp.25-26). With its redistributive format, favouring the low-paid, the scheme clearly acknowledged women's limited access to occupational pension provision (ibid., S13, p.34), though it was anticipated that female membership would increase. The 1970 Labour government announced its intention of legislating for 'equal pension rights' before the EPA 1970 became effective in 1975 (H of C, 801, cols. 1788-89, 27/5/70). When the Secretary of State for Social Services opened the debate on the second reading of the National Insurance bill, there was brief mention of the exclusion of women from membership of employers' pension schemes, though this exclusion seems to have been equated with married status and was used as an argument for extending occupational coverage for widows. No case was made for extending occupational scheme membership to a greater number of employed women (H of C, 794, col. 56, 19/1/1970).

The 'Joseph' plan of 1971 proposed to continue the 'married women's option' arrangement for the basic state retirement pension. The White Paper emphasised that about 4 million women were currently 'opting out' and that most wives worked for 'only a part, and often only a small part' of their adult lives. Such women were, typically, low-paid and tended to work part-time (DHSS, 1971, S47, pp. 14-15). However, regardless of marital status, all employed women would be required to pay earnings-related contributions towards their membership of the State Reserve Scheme if not 'contracted-out' into an approved occupational scheme (ibid., S77, p.24).

The White Paper noted that 'on present evidence' it appeared that two-thirds of male but only a quarter of female employees were in occupational pension schemes (S24-25, p.9). It stated that since cover for

widowhood was still inadequate in many schemes, all wishing to be 'recognised' for contracting-out purposes would be required to provide a half-rate widow's pension if the husband died in retirement or at least a lump sum if he died earlier (S57, p.17). 'Recognised' schemes were to be allowed to pay a lower minimum rate of pension to women members 'to take account of the fact that the pension must be available to them at 60 (compared to 65 for men) and their greater longevity, with an offset to allow for the absence of mandatory dependency provision' ibid., S59, p.17). The OPB would also be allowed to recognise schemes which gave women a slightly lower level of personal retirement pension where survivors' benefits were available for dependants, such as elderly parents (S59, p.18).

A woman employee, like her male colleagues, would have her occupational pension 'frozen' (provided that she had attained the age of 26 and completed five years' service) if she gave up paid work or moved to another employer, unless, unusually, her pension rights could be transferred to another employer's scheme. If she had less than five years' service, her contributions would be paid over to and preserved in the State Reserve Scheme (S65, p.19) where, however, female pensions were to be lower than male. A woman entering the Reserve Scheme at 21 with earnings at entry of £30 per week would get a Reserve pension of £12.70 at 60 representing 14% of her earnings at retirement, assuming that they had risen at 3% per annum. A man earning the same amount would get £21 at 65 (Table B, p.23). Furthermore, it was proposed to pay the pension to women at 60 regardless as to whether retirement had actually taken place, giving no opportunity to 'enhance' the pension. This was because an 'earnings rule' was considered to be inappropriate for this type of scheme and a retirement condition, to be effective,

would need to be supported by an earnings rule (S73, p.22).

The lower pensions which would accrue to women were justified on the grounds that female longevity and earlier 'pensionable' age more than offset the cost of widows' benefit provision (S74, p.22). A widow would be entitled to half her husband's pension under the Reserve Scheme, if he had one, and could seemingly draw this in addition to a full Reserve pension earned in her own right - just as she could receive an occupational widow's pension and her own Reserve benefits. It was estimated that half the 7 million people who would be required to join the Reserve Scheme would be women (Appendix 3, p.20), whose employers, presumably, were among those who found it 'impracticable' to include them in occupational pension schemes (S26, p.9).

The pensions bill which followed was castigated by Barbara Castle (Lab.) as 'an insult and an injury to the women of this country' (H of C, 847, col. 227, 8/5/1973), to which many women's organisations had objected (ibid., col. 238). Having 'put all the emphasis on the occupational pension scheme - they have given women no statutory right to belong to it' (ibid., col. 228). She argued that membership of an occupational scheme gave superior benefits to the Reserve Scheme, yet 'equal rights', as the government claimed to be offering as regards second-tier pension scheme provision, would, for many women, mean, in reality, compulsory membership of the Reserve Scheme (ibid., col. 331).

Mrs. Castle argued that unless women were given a statutory right to belong to an employers' pension scheme, they would find themselves relegated to the Reserve Scheme. To the extent that occupational pension benefits had become recognised as 'deferred pay' it was necessary to 'legislate for equality of rights for women in pensions' otherwise

women would continue to be severely under-represented in scheme membership. 'We all know that the occupational scheme is more likely to be introduced in those areas where the employee is strongly organised, well-paid and able to assert himself.' (Ibid., col. 229) Finally, Mrs Castle asked that at least one-third of the membership of the OPB should be female, since despite assurances to the contrary at committee stage, the first eight members' names announced were male (ibid., col. 234).

Mrs Kellett-Bowman (Cons.) supported mandatory equal access to schemes for women at the same age as men, pointing out that many women probably did not take a 'keen interest' in membership precisely because early in their careers they were not able to acquire enough years of service for preservation. Yet women 'may have to change jobs willy-nilly not because of their own promotion but because their husbands move --' (ibid., col. 237). However, Mrs Kellet-Bowman dismissed any disadvantages to women under the bill as 'a few snags', one of which was the lack of facility for women to earn a higher Reserve pension after the age of 60 (ibid., col. 235).

Other members were more critical. Alec Jones (Lab.) quoted the National Council of Women's comment that the bill but little reflected general social change 'and especially the rapidly changing position of women both inside and outside the home' (ibid., col. 338). Geoffrey Stewart-Smith (Cons.) demanded that the OPB should 'use its powers to make mandatory the right of women to be given access to occupational pension schemes. Nothing less is good enough' (ibid., col. 239). However, despite the efforts of Michael Meacher (Lab.) to illustrate the extent to which women were discriminated against in occupational pension provision (ibid., cols. 251-53) it became abundantly clear in the course of the debate that the Conservative government did not

wish to inhibit the growth of occupational pension schemes or antagonise employers by requiring equal treatment for women (ibid., cols. 250, 253, 258-59). As a government spokesman put it, 'There is no doubt that many employers who have large numbers of female employees - many of whom will be in part-time employment and many of whom will work for a short period and then retire - who at present are prepared to set up occupational pension schemes for men alone would not' (in the event of an equal treatment requirement) 'be prepared to set them up at all.' (Ibid., col. 258) It was further argued that the greatest discrimination against women was practised by 'small employers' as the evidence of a recent British Institute of Management survey showed: such employers would most easily be persuaded to discontinue or fail to embark on employers' pension provision (ibid., col. 255, Norman Lamont, Cons.).

Had the Social Security Act 1973 become fully effective, it would have offered a residual statutory second-tier retirement pension as an alternative to inclusion in an employers' pension scheme. The Conservatives were subjected to considerable criticism for this proposed treatment of women (Groves, 1983, p.51; Kincaid, 1976, p.51; Land, 1976, p.125).

The fourth GA's survey of employers' pension provision, undertaken in 1971, threw further light on the continuing under-representation of women in occupational pension schemes. Female employees were sometimes excluded from schemes as a class, where men were admitted. More frequently, as with private sector manual workers, they were simply not in a category of employment which qualified them for scheme membership (GA, 1972, Table 6, p.12). It remained the case that women had far better access to occupational pension provision in the public than in the private

sector, though the influx of women into part-time public sector employment was visibly diminishing female access even in this traditionally 'good' sector (see Ch.3, Table 11 above). The actual numbers of women remained the same in 1971, with a million female members of public sector schemes as against 3,100,000 men. A further 100,000 women were in membership of private sector schemes, giving a total of 1,400,000 women as compared with 5,600,000 men, whose numbers, as previously noted, had reduced by over a million. The slight increase in the proportion of manual women in membership to 25% in the public sector and 19% in the private sector had been offset by a decrease among non-manual women to 60% in the public sector and 36% in the private sector. Such evidence gave no reason to suppose that the access of women to employers' pension provision was improving (see Ch.3, Table 11 above).

While no GA's report had yet given part-time work as a specific reason for exclusion from pension scheme membership, it was this which placed many women in both public and private sectors outside the scope of occupational pension provision. That coverage was particularly variable for women, as compared with men, in terms of occupation, hours worked and age, was well illustrated by the findings of the New Earnings Survey 1970, which included questions on occupational scheme membership.

Table 16

Percentage of employees in occupational pension schemes:

by occupation group, April 1970, GB.

Occupation group Non-Manual	Males	Females	Full time Men 21+	Full time Women 21+
1. Managers	73.1	35.2	74.0	37.7
5. Academic and teaching	91.8	81.4	95.5	95.6
6. Medical/dental/nursing/ welfare	89.6	61.7	92.4	79.3
7. Other professional and technical	71.6	57.7	76.3	64.6
8. Office and communications	69.8	35.8	76.0	43.9
9. Sales	53.9	7.1	63.6	13.0
Manual				
6. Medical, dental, nursing and welfare	83.3	37.6	84.5	55.6
8. Office and communications	72.7	23.6	76.7	39.7
9. Sales	38.3	2.0	42.6	1.4
11. Catering, domestic and other service	27.2	9.8	35.3	23.0
15. Textile, clothing and footwear	24.9	7.0	29.3	8.8
All NES categories 1-16				
Non-manual	73.2	38.6	78.0	50.4
Manual	45.3	11.9	49.9	19.0

Source: Dept. of Employment, 1971, New Earnings Survey 1970, Table 110, p.198.

Table 17

Percentage of employees in occupational pension schemes: by age group, April 1970 GB.

Age group	All Males	All Females	Full time Males	Full time Females
Under 18	8.4	8.4	8.8	9.6
18 - 20	20.7	26.4	20.9	27.3
21 - 24	40.6	34.8	40.8	37.6
25 - 29	51.6	33.1	51.7	41.9
30 - 39	58.6	25.2	58.9	40.9
40 - 49	65.1	26.5	65.3	40.1
50 - 59	66.7	29.1	66.9	42.2
60 - 64	60.0	16.8	60.7	32.8
65+	16.3	7.7	29.3	15.2
All ages	54.4	26.4	55.3	36.0

Source: Department of Employment, 1971, New Earnings Survey 1970, Table 111, p.199.

The 1974 White Paper Better Pensions emphasised 'equality for women' arguing 'For too long women have been treated as second-class citizens in pension and benefit provision.' (DHSS, 1974, p.iii) The proposed statutory pension schemes, the first-tier basic pension and second-tier SERPS (see Ch.3 above) would permit women to qualify for

full benefits on retirement in return for full contributions while in paid employment (ibid., S45, p.12). Credits would be given towards entitlement to a basic pension for time spent out of the labour force on specified domestic duties (see Atkins, 1980) and SERPS would be based on a contributor's revalued 'best twenty years' of earnings, a 'positive discrimination' measure designed to complement the 'credit' system both for persons who withdrew from the labour market as 'carers' and for those whose better earnings occurred at an earlier stage of their employment career. In addition to improved widows' benefits in both state and occupational provision (ibid., S62, p.17), occupational pension provision would incorporate 'equal status' for women.

> 'The government are committed to the principle that women should have a fair deal in occupational pension schemes. This demands that schemes should not discriminate against women in the rules for admission. It is proposed therefore to legislate so that women have the same access to occupational schemes as men doing comparable work, so that they are admitted at the same age, after the same period of qualifying employment and on the same basis of compulsion or choice.'

'Comparable work' would be defined along the same lines as under the Equal Pay Act 1970 (ibid., S75, p.21). With a right to 'equal access' secured, the government would then 'review in detail all the considerations relating to providing cover for women in occupational pension schemes' to see if further action was required to eliminate sex discrimination (ibid., S76, p. 21). The issue of female participation in the running of occupational pension schemes had already been remitted for consideration by the OPB (ibid., S81, p.22).

The Social Security Pensions bill of 1975 had a stated aim 'to make provisions for securing that men and women are afforded equal access' (p.1) and the Secretary of State (Mrs Castle) announced 18/3/1975 that she had formally asked the OPB to advise 'on what further provisions are needed to end discrimination against women in occupational pension

schemes'(H of C 888, col. 1433). During the debate on the Second Reading Mrs Castle did not warm to Mrs Kellet-Bowman's (Cons.) argument that employers should be encouraged to admit women to 'good schemes' (in which the presence of women would be an added expense) by giving such employers preferential terms of rebate in respect of 'contracted-out' female employees. Norman Fowler (Cons) expressed fears that unless such preferential arrangements were made, employers with a high proportion of women workers would be dissuaded from 'contracting-out', faced with the knowledge that women both live longer and retire earlier (ibid., col. 1511). No such preferential arrangements were made and Mrs Castle's reference of 'equal treatment' issues to the OPB seems effectively to have deleted the topic from discussion in Standing Committee A. The interest of that discussion lies in the extent to which members expressed views constructing female earnings as sporadic, incidental or undertaken at times of household financial 'crisis' other than in the case of a deviant minority of 'serious career women' (H of C, 1974/75, cols. 61-62, 10/4/1975) alias 'a few middle-class professional women of advanced thought' (ibid., col. 114, 15/4/1975) or women's 'libbers' (ibid., col. 122). 'I think we all agree that a women's place is clearly in the home' stated Mr Hall-Davies (Cons.) (ibid., col. 132).

That women were not, in point of fact, 'in the home' to the extent which might have satisfied Mr. Hall-Davies is evident from the GA 1975 survey (1978) which showed an increase of 400,000 in female membership of occupational pension schemes. A gain of 600,000 in the public sector was offset by a loss of 200,000 in the private sector (GA, 1978, Table 3.2, p.9). There were 1,700,000 women as compared with 3,700,000 men in the public sector, with male membership also having risen, by 500,000, in comparison with the revised 1971 figures. In the private sector

there were 1,100,000 women members as against 5 million men. As previously stated (Ch.3), in the public sector 84% of men and 59% of women were in membership as compared with 53% of men and 17% of women in the private sector (ibid., Table 3.1, p.8).

Women were greatly over-represented among those categories of employee excluded from scheme membership, with, for women, part-time or temporary employment being a major cause in both private and public sectors (ibid., Table 3.11, p.17). A major cause of exclusion in the private sector was 'non-eligibility of job'. Manual workers of both sexes were particularly at risk to exclusion on these grounds (ibid., Table 3.12, p.17). Figures derived from the GHS 1975 showed that whereas men and women were equally represented in membership of schemes between the ages of 16-24, women were consistently and increasingly under-represented in all later age cohorts (ibid., Table 3.13, p.18). No details were given on the average pensions payable to men and women, as separate categories, already in retirement. However, some indication of the extent of pension entitlement among married women is to be found in Hunt's 1976 study, where only 5.6% of married women over 65 living at home in England were in receipt of an employer's pension, as compared with 51% of husbands (Hunt, 1978, Table 6.4.3, p.28).

The 'pensions debate' period 1969-75 saw the re-emergence of a 'women's movement' along with legislation on both equal pay and sex discrimination. In the pensions field, Crossman's promised 'new deal' for women was followed by Joseph's alleged 'poor deal'. The compromise Castle plan and ensuing legislation promised improved access and serious consideration of women's position in occupational pension provision.

d) The Social Security Pensions Act 1975: implications for women

Under the new pension arrangements effective April 1978, all women earning over a modest 'base' are required, regardless of marital status, to contribute a percentage of their wage towards a basic retirement pension, among other benefits. Those women who are in an employment category not 'contracted-out' at their workplace then pay a further percentage of their wage up to a 'ceiling' for eventual entitlement to a SERPS. Those who are members of 'contracted-out' occupational pension schemes pay at a slightly lower rate on that band of earnings between 'base' and 'ceiling'. Employer's contributions vary likewise.

Thus 'A', a full-time retail worker earning £9,000 per annum in 1983-84 pays contributions because she earns more than £32.50 per week (£1,689.96 per year). She is not 'contracted-out' so pays Class 1 contributions at 9% on her weekly earnings, which fall below the 'ceiling' of £235 per week (£12,220 per year). This will eventually qualify her for a SERPS pension, based on her 'best twenty years' revalued in line with inflation. For a basic retirement pension she must have paid or be credited with contributions for 9/10 of her working life, with credits available in certain circumstances if she is unemployed, drawing child benefit or caring extensively for someone qualified for attendance allowance. Assuming that £9,000 represents the average of A's 'best twenty years' and she has a good contribution record plus any credits, the value of her pension had she retired in 1983 at 60, as if the scheme had reached its full maturity in 1998, would be £3,517.50, that is a full basic personal pension of £1,690 plus a £1,827.50 SERPS pension, all taxable as earned income. For this her employer, on 1983-84 regulations, would have paid contributions on her behalf at 11.45% including a 1% National Insurance surcharge.

By contrast, 'B', a public sector professional worker earning £9,000 per annum also pays contributions in her 'contracted-out' employment, at 9% on her earnings up to £32.50 per week and at 6.85% on her earnings up to the 'ceiling'. She also pays 6.30% on her total earnings into her occupational pension scheme. These contributions will eventually qualify her for an occupational pension, since she will have completed more than five years' service and be over the age of 26. Should 'B' like 'A' retire at 60 in 1983, her pension will be calculated, typically, on a 'best' notional annual salary over her last ten years of service. If this is £9,000, she will get a pension of £3,937.50 for 35 years service, calculated as 1/80 of final salary multiplied by total years of service. She will also get a lump sum equal to three times her pension, that is £11,812.50. To this pension, plus interest on her lump sum, B can add her state basic retirement pension of £1,690, provided that her employer makes no notional deduction from the occupational pension for this. B's employer will have paid contributions at 11.45% up to the lower-earnings limit and at 7.35% up to the ceiling (see Matthewman and Lambert, 1984, p.45). Unlike 'A', 'B' will have received tax relief on her occupational pension contributions, plus a tax free lump sum. This example is modelled on the typical entitlement of a public sector worker with a lengthy full-time employment record.

These two simple examples serve to illustrate a complicated scheme and are predicated on the continuation of the original arrangements to 1998. 'A' pays non-tax relieved contributions at 9% for a state pension with two components up-rated in line with the value of money. Her 'best twenty years' of earnings will count, helpful if she was at her peak earnings in mid career and/or if she took a 'career break' for any reason. 'B' by contrast will have paid ccntributions at 15.30%

on her earnings up to the base and 13.70% thereafter to the 'ceiling', at which point the contribution is 6.30% less tax relief. In public sector employment 'B' could move her job without losing her pension, which would itself be index-linked.

Thus:

'A'	State retirement pension	£1,690
£9,000 av. salary	Full SERPS	£1,827.50
	Total	£3,517.50
'B'	Occupational pension	£3,937.50
£9,000 'final' salary	State retirement pension	£1,690
		£5,627.50
	Notional 8% interest on lump sum	£945
	Total	£6,572.50

Membership of SERPS is designed to advantage persons with lower life-time earnings and interrupted careers, a group wherein women are over-represented. Furthermore, the SSPA 1975 contained a requirement for a 'guaranteed minimum pension' whereby all occupational pensioners are assured of an eventual pension of 'At least as much as the State scheme would have paid on the upper bank of earnings in respect of the period of contracting-out, had those same earnings been used to calculate the State pension for that period.' (TUC, 1981, p.30) The GMP concept is designed to assist 'early leavers' and those who leave pensionable employments before retirement age. To 'A' the prototype state pensioner and 'B' the public service pensioner could be added 'C', a woman whose private sector employment would give an eventual

modest entitlement to occupational pension benefits derived from several employments - a recipe for an eventual pension which might be no better than SERPS, though probably with some 'lump sum' entitlements. However 'C''s pension entitlements from the private sector would be at risk to losing their value.

A high proportion of women members of employers' pension schemes (77%) were 'contracted-out' of SERPS[57] by 1979 (GA 1981, Table 2.2, p.5) at which point over 8 million men and 3 million women were in membership, an increase of a further half million women, mainly in the private sector, in contrast to a continuing small loss of men. These figures continued trends previously discussed in Ch.3. 62% of all male and 35% of all female employees were in occupational schemes, with 55% of public sector women (90% men) and 24% private sector women (50% men) included (ibid., Table 2.1, p.5).

While 34% of women and 22% of men were not in schemes in the private sector because their employers did not provide them, a further 14% of women (12% men) were ineligible on grounds of youth or short service. 28% of women (17% men) were not in private schemes by choice, because their employment was part time or for other reasons (ibid., Table S2.8, p.10). In the public sector, occupational scheme membership was near-universal for full-time staff, but a massive 45% of all female employees were not in schemes by virtue of their service being 'part-time or for other reasons' including temporary status. Only 7% of male employees were in this category. (Ibid.)

Undoubtedly part-time working was the major and continuing cause of the exclusion of women from scheme membership. Indeed, the new arrangements permitted low, and by definition, part-time, earners, to be excluded from contributing to the National Insurance scheme.

In the public sector, 89% of the part-time women were not covered by existing schemes or exercised an option not to belong to them - only 11% were covered. In fact, 42% of all female public sector employees were part-time, as compared with 4% of the men (ibid., Tables 2.8, 2.9, pp.10 and 11). In the private sector, 71% of the part-time women were in employment where no occupational pension scheme membership was available. A further 21% were either not covered by existing schemes or did not choose to belong. Only 6% of part-time private sector women employees were in membership of occupational schemes. 2,225,000 of such female part-timers were not in schemes and none of the 500,000 male part-timers (ibid., Table 2-9, p.11).

Early in 1979 a survey of private sector employees (McIntosh 1980) found that occupational pension schemes were available in 71% of establishments in the sample to 'either supplement the state scheme or replace it with a better one.' Schemes were 'available to 80-90% of managers and 72% of non-manual workers' but to 'only 50% of manual workers and 38% of part-time workers' (McIntosh, 1980, p.1147). The establishments with occupational pension schemes included 88% of all employees in the sample, but although women represented 37% of all employees in the survey, only 28% of the membership of occupational pension schemes was female.

The Department of Employment's survey of women's employment showed major differences in access to scheme membership as between full and part-timers. 71% of full-timers but only 43% of part-timers stated that their employer had a pension scheme: a modest 53% of full-timers and a miniscule 9% of part-timers actually belonged to one.

Table 18

Proportions of full and part-time employees whose employer has an occupational pension scheme by occupational group, 1980, GB.

* % whose employer has scheme
** % who belong

Occupational group	Full-time		Part-time		All	
	I*	II**	I	II	I	II
	%	%	%	%	%	%
Teaching	96	91	92	35	95	79
Nursing, medical, social	86	79	73	21	80	54
Other intermediate, non-manual	72	52	-	-	68	45
Clerical	80	59	52	13	72	46
Sales	45	20	27	6	34	12
All non-manual	79	61	50	13	69	45
Skilled	57	34	39	11	50	25
Semi-skilled factory	51	30	38	8	47	24
Semi-skilled domestic	47	34	43	7	44	12
Other semi-skilled	55	44	30	10	42	26
Unskilled	65	37	32	3	36	8
All manual	54	34	37	6	44	18
All employees	71	53	43	9	58	34

Source: Martin and Roberts, 1984, Table 5.16, p.49.

Part-time working was a major cause of exclusion from scheme membership - 67% of part-timers were excluded, with some employees being excluded on grounds of youth (25% of full-timers only) or by reason of short service (23% full-time, 6% part-time). Small proportions of the sample were too old (4% overall), temporary (5% overall), in an 'ineligible' job (6% full-time, 9% part-time) while 18% of full-timers did not wish to join what must have been a 'contracted-in' scheme (ibid., Table 5.15, p.48). 39% of part-timers worked for an employer without a pension scheme as did 22% of full-timers (ibid., Table 5.14, p.48). There was a strong association between membership of an occupational pension scheme and completion of lengthy full-time service in the non-manual occupations of 'teaching' and 'nursing, medical and social' work (ibid., Table 5.16, p.49).

The 1975 pension legislation gave women 'equal access' to occupational pension scheme membership but the 'contracting out' arrangements in fact permitted private sector employers to exclude certain 'employments' Martin and Roberts (1984, pp.49-50; Table 5.18, p.50) found that occupational segregation played its part in excluding women from schemes (see Ch. 7). Those in 'women only' jobs were less likely to belong to a scheme.

Despite the 1975 legislation there has been continuing under-representation of women in employer's pension scheme provision and continuing 'unequal treatment' of women in schemes, in the absence of sex discrimination legislation applicable to pensions and death benefits. Part IV of this thesis gives detailed attention to 'equal access and treatment' issues, including the relationship between occupational pension entitlement and women's paid employment, following a retrospective view of the growth of occupational pension schemes and female access to membership.

e) Women and the growth of occupational pension schemes 1939-83

This chapter has focussed on female access to employer's pension provision 1939-83, a period during which such provision notably expanded especially during the 1950s and 60s when 'full employment' prevailed. However, Table 14, Ch.3 illustrates the extent to which undifferentiated statistics on scheme membership mask very different trends in female access as opposed to male. In particular, while membership in the public sector increased for both sexes, in the private sector there was a steady decline from a peak of 6.8 million men in 1967 to 4.7 million in 1979 while, by contrast, there was a steady rise in female membership from 800,000 in 1963 to 1.5 million in 1979.

These trends occurred at a time of general decline in male labour force participation (see Ch.3, section 5) and of a steep rise in female economic activity over the same period. The composition of the female labour force became increasingly different from its pre-war counterpart in ways of direct relevance to employers' pension provision. With the marriage bar abolished in the public sector and a high post-war demand for labour, the female workforce came to consist mainly of younger women in full-time work prior to motherhood and 'married women returners' typically working part-time. Demand for the latter remained buoyant despite the economic recession of the 1970s and 80s, not least because there is no obligation on most employers to admit such women to membership of occupational pension schemes. The increase in female pension scheme membership was accounted for mainly by an increased presence of younger full-time women, plus a leaven of older full-time women of varying marital and parental statuses.

During the period, public sector employment proved attractive to 'white-collar' women. Central and local government as well as the nationalised industries have normally included permanent full-time

female employees in their pension schemes on a parity with men. Yet even so, in 1979, 90% of public sector men were in schemes, but only 55% of women (GA, 1981, p.4), a disparity largely explained by the exclusion of 1¼ million part-timers (ibid., Table 2.9, p.11). By contrast, only 50% of men and a mere 25% of women employees were included in private sector provision (ibid., p.4). Thus, at this particular point in time, one out of two men and three out of four women in the private sector were reliant on building up a record with SERPS for an entitlement to a second-tier pension over and above the state basic provision. Such an entitlement depended upon their having sufficient earnings above the lower limit to qualify for inclusion.

Public sector employment has offered women the best prospect of occupational pension scheme membership since World War II since, in general, employers have had no choice but to include full-time established or permanent women staff in their schemes, regardless of marital status. Such women have shared with men the benefits of being in the 'transfer club' on changing jobs and of having index-linked pensions which weather inflation better than some private sector pensions. However, another strategy employed to counter inflation, the move towards 'terminal salary' benefits, has favoured women less than men, since, as will be seen in Ch.7, unlike most men in pensionable occupations, women do not necessarily receive the highest level of remuneration (in real terms) in the closing years of their working lives, nor do they rise on incremental pay scales to the extent that men do.

The private sector has offered more scope to employers who have wished to restrict membership of pension schemes to men or impose more stringent conditions of entry on women. Furthermore, the rules of entitlement to NI retirement pensions established in 1948 made it a dubious proposition for employed married women to pay contributions in their own right in preference to exercising the 'married women's

option'. The fact that a small minority of married women paid full contributions up to 1978 helped to construct wives as employees 'not interested' in pensions and 'naturally' dependent upon their husbands for financial provision in old age. With a near-universal female marriage rate, young women's potential needs for occupational retirement benefits were discounted. Special arrangements were made for some of the increasingly small number of women who embarked on lengthy full-time careers, married or single, while others were treated as 'honorary men' and admitted to schemes at a suitably advanced age.

The history of occupational pension provision shows how successive governments have actively encouraged employers to provide pensions for their better-paid and/or male workers by organising state provision in such a way that lower paid and secondary workers can legally be excluded from schemes, in good conscience, on the grounds that they have access to an alternative state-provided residual second-tier scheme, such as SERPS. Women, from the late 1950s, have been primary targets for exclusion from the occupational sector and inclusion in second-tier retirement provision, though a proportion earned too little even to be included in the second-tier, which offers benefits more modest than most occupational schemes. It is the 'primary' (and typically male) employee, usually of non-manual or skilled manual status who has been the target beneficiary of post-war employers' pension provision. As the tax threshold has fallen, so tax advantages have accrued from scheme membership, affecting a wider band of lower earners. However, some women work part-time precisely so as to pay no tax on their earnings.

A particularly blatant example of 'exclusion' strategies is to be found in the provisions of the SSPA 1975 which permit workers to be excluded by virtue of their employment category. The under-representation of women in occupational pension scheme membership in 1979 can undoubtedly be accounted for not only in terms of 'domestic exits' from the labour

force and part-time working, but also because, given the degree of occupational segregation by sex which still permeates the British labour force (see Ch.7 below), employers have, since 1978, been able to continue to exclude whole categories of even full-time women from their pension schemes. For most of the period women have been poorly unionised and issues of female access to occupational pension scheme membership have received scant attention until the mid-seventies (TUC, 1969-83). Even now the focus of union activity seems to be more directed towards promoting the equal treatment of women who are in schemes, especially with regard to the provision of widowers' pensions (which advantage men), than towards widening female access to schemes.[58] One problem here is that women may be disadvantaged by working for small firms who are far less likely than large ones to offer membership of an employers' pension scheme. In 1979, only 7% of employers with less than 10 employees had a scheme, and only 33% of those with less than 100 employees.

This chapter has shown a continuing under-representation of women in membership of occupational pension schemes and has indicated the existence of differential treatment of men and women within these schemes. Part IV of this study examines evidence and addresses issues relating to equal treatment of men and women in occupational pension schemes.

References

Part III: Women as Members of Occupational Pension Schemes 1939-83

Chapter 3 The Expansion of Occupational Pension Provision

1. See Rhodes (1965), Appendix 7; pp.301-314, for discussion of the relationship between tax and occupational pensions.

2. Committee on the Taxation Treatment of Provisions for Retirement (Chairman: James Millard Tucker).

3. Inter-Departmental Committee on Social Insurance and Allied Services (Chairman: Sir William Beveridge). See Beveridge (1942), S40, pp.19-20 as to why this report was published under Beveridge's name alone and Harris (1977), pp.378-417 for detailed discussion of the Beveridge Report.

4. 'I Employees, that is, persons whose normal occupation is employment under contract of service

   II Others gainfully employed, including employers, traders and independent workers of all kinds

   III Housewives, that is, married women of working age

   IV Others of working age not gainfully occupied.'

   (Beveridge, 1942, S19 (ii), p.10)

5. Persons in classes I, II and IV were to pay a weekly flat-rate contribution: men were to pay more than women 'so as to secure benefits for Class III' (ibid., (iv)).

6. Beveridge argued that while 'the existence of ... independent provision is not a reason which should lead the state to avoid making comprehensive adequate provision of its own for everybody in old age ... it does affect the steps by which that comprehensive provision should be introduced'. (Ibid., S240, p.93) Persons with occupational superannuation provision in retirement were identified by Beveridge as being among those classes who had resources which would enable them to subsist outside of statutory pension provision (ibid.). It was of course envisaged that means-tested National Assistance should be available to indigent pensioners (ibid., S369-74, pp.142-43).

7. Bacon et al. (1954), p.147, noted that in 1948, special arrangements were made to enable people who were within ten years of pensionable age, 'but were not then insured', to 'complete the minimum period of ten years' contributions'. Some people stayed on at work beyond pensionable age to qualify for a basic retirement pension so Bacon et al argued that the number of elderly retired people was likely to be 'boosted' from this source after 1958.

8. Committee on the Economic and Financial Problems of the Provision for Old Age (Chairman: Sir Thomas Phillips).

9. Ministry of Labour (1938).

10. Schemes run by companies specialising in life assurance business, not by the employers.

11. Bacon, F W, et al (1954), a study made with particular reference to 'The financial and economic effects of pension rights of all kinds (under National Insurance, Civil Service and Local Government schemes, schemes for nationalised industries and under private schemes, both by private funds and Life Offices) having regard to the future population trends of the U.K. and, in particular, the growing number of aged persons in the population over the next few decades'. (p.141)

12. See Heclo (1974), pp.260-272 for an account of the emergence of the policies which led to the Labour Party's 1969 White Paper on national superannuation and the part played in shaping these policies by Richard Titmuss, Brian Abel-Smith and Peter Townsend.

13. This concept discussed by Titmuss, The Times, 29th, 30th December, 1953 ('The Age of Pensions').

14. Subsequent Government Actuary's surveys were undertaken 1963 (1966), 1967 (1968), 1971 (1972), 1975 (1978) and 1979 (1981).

15. See Rhodes (1965, pp.292-300) for detail on the Graduated Pensions Scheme and the technicalities of its financial effects on occupational pension provision. Lynes (1963, pp.21-29) also offers a comprehensive critique of 'contracting-out'.

16. The Labour Party proposed a short-term measure - the income guarantee, to take elderly pensioners out of National Assistance. This measure was never introduced, though National Assistance became Supplementary Benefit from 1966. (For detail see Labour Party, 1963, p.18 re income guarantee, and Webb, 1975, Ch.14, 'The Abolition of National Assistance', pp.410-471.)

17. In this pamphlet he answers criticism of the growing power of pension funds to control industry by acknowledging the dangers implicit in large institutional pension fund holdings and by arguing for competition between insurance companies and for a means of safeguarding pensioners' interests (Seldon, 1960, pp.14-21).

18. Study undertaken by Gerald Rhodes (Research Officer) with the assistance of a study group of five men drawn from local government, the pensions field/industry/the Civil Service and academic life (economics and public finance). Two further members, an actuary and an accountant, eventually resigned because 'they found themselves in fundamental disagreement with the views of the other members of the study group and with the general tenor and conclusions of the study', in particular its conclusions on funding (Rhodes, 1965, pp.7 and 9).

19. The public sector schemes were: Civil Service, Local Government, Teachers, N.H.S., Police, Firemen, National Coal Board Principal, Electricity Supply (Staff) (England and Wales), Gas Industry (Staff), British Railways Staff (L.N.E.R.), Airways Corporation (General Staff), Atomic Energy Authority (Non Industrial). The private sector schemes discussed in detail comprised thirteen very large schemes drawn from six anonymous firms. A further five firms' schemes were also examined. See Rhodes, (1965, Ch.5.).

20. The USS pension scheme still reduces the retirement pension by £100 'to allow for the State pension' in line with Civil Service practice recently ended (McGoldrick, 1984, p.94).

21. See Crossman, 1977, with index (p.1017) documenting references to extensive consultations with the CBI, TUC, NALGO, the Government Actuary's department, the Life Office Association, etc.

22. Personal pension only: dependency and widowhood cover would be available in full from the state scheme to those 'contracted out' (DHSS, 1969, S138, pp.41-42).

23. The survey notes that 1967 totals may have been overstated and that there had been a contraction in the labour force since 1967 (S3.3, p.6; S3.4 - 3.5, p.7).

24. The report refers to the findings of the Family Expenditure Survey 1970, in which the mean occupational pension was £6.45 per week and the median £4.05, with 40% of pensioners getting less than £3 per week and only 18% more than £10 (GA, 1972, p.14).

25. Figures revised from the Government Actuary's 1971 survey (1972). No information given on relative proportions of manual and non-manual workers.

26. This legislation builds on certain provisions of the Social Security Act 1973 and the Social Security Act 1975.

27. A detailed exposition of the provisions as amended by subsequent legislation and with explanatory notation of appropriate Ministerial regulations is to be found in Matthewman and Lambert, 1983, Ch.11, S11.5 - 11.57, pp.279-99.

28. An employer may contract out members of designated 'categories of employment'. It may contract-out all 'administrative assistants' and contract-in all 'clerks', or contract-out all persons earning over £10,000 and contract-in all personnel earning less (see Ward, 1981, pp.23-24).

29. The 'technical' pensions literature of the 1975-78 period is replete with articles advising employers on their best options.

30. Figures revised from the Government Actuary's 1975 survey (1978).

31. For detail on the OPB see Pilch and Wood, 1979, Ch.4; TUC 1978. Hart (1978) provides a graphic account of the vast initial 'contracting out' operation. The Board usually has about 14 members, including pensions specialists and trade union representatives.

32. The major issues on which the Board has been asked to report have included solvency, disclosure of information and member participation, equal access, the availability of cover for disabled people and transferability of pension rights.

33. See Ch.6 of this study.

34. For discussion see Minns (1980); Locksley and Minns (1984). Pension funds had a market value of £53 billion in 1979, £8 billion of which had been acquired in that year (GA, 1981, Table 4.3, p.19). At times employers have been forced to top their funds up with uncovenanted payments so as to be sure of meeting their liabilities (Kincaid, 1975, p.55): at other times the funds have shown huge surpluses (James, 1984, p.15).

35. Some are invested abroad: see Minns (1980), Ch.4.

36. Defined as those who change their jobs, become unemployed or self-employed, leave the labour force for domestic reasons or to pursue further education and training (OPB, 1981, S1.7, p.2).

37. Revaluation of pension benefits to compensate for the effects of inflation.

38. Inquiry into the Value of Pensions (Chairman: Sir Bernard Scott), see H.M. Treasury, 1981.

39. Committee to Review the Functioning of Financial Institutions (Chairman: Sir Harold Wilson): see H.M. Treasury (1980). For discussion of the law governing U.K. pension schemes, see Young (1984).

40. This has been a continuing concern of the trade union movement since the early 1970s but not all trade unionists endorse the notion of employers' pension provision (Ward, 1981, pp.3-4).

41. In June 1984 the Secretary of State announced steps to compel occupational pension schemes to offer indexation of benefits at 5% (or at the rate of price-inflation if less) on that portion of the occupational pension which is not already indexed as a Guaranteed Minimum Pension, provided that five years contributions have been paid. The minimum age of 26 will be abolished (Pensions Today, 1984, no.7, p.1) as will the practice of 'franking', except in respect of pre-1978 contributions. The Secretary of State had issued a consultative document on transferability, held a national conference in September 1983 on 'early leaving' (DHSS, 1983), and taken advice from the OPB (1981, Chs. 7 and 9). During 1984, a government inquiry into retirement pension provision has been in session, with much attention being directed towards the notion of 'portable pensions', (which are in fact 'money-purchase' schemes, long since discarded by the employer's pension sector) which attach themselves to an individual. A consultative document has been issued on 'portable pensions'. These latest developments, though interesting, are too recent for discussion in this thesis.

42. Lower birth-rates between the wars had diminished the 'pool' of younger workers.

43. Though employers no longer make receipt of a pension conditional on their definition of good behaviour, as did 'ex-gratia' schemes. However, a person found guilty of a criminal offence might lose all but their Guaranteed Minimum Pension, which is inalienable (Social Security Pensions Act 1975, S48, p.43). Furthermore, as Toulson (1975b) points out in an amusing article, high treason is still a capital offence and capital punishment the only means whereby a GMP can be lost, other than from natural causes.

44. The use of the USS to facilitate what are, effectively, mass redundancies, under the terms of the Premature Retirement Compensation Scheme which terminates 30/9/1984, is an example.

Chapter 4 Employers' Pensions and the Woman Worker

45. Marwick (1970, p.293) argues that in practice it was the 19-24 age group which was mainly affected.

46. Including the Civil Nursing Reserve.

47. Summerfield (1977, p.36) points out that absenteeism was a problem among this group until state welfare provisions and accommodations within the family and neighbourhood made it easier for married women to work. All these women war workers must have been invisible to the opponent of equal pay who claimed that 'even at the height of the war half the women of the country remained unavailable even for part-time employment' (RCEP, Minutes of Evidence, 17/10/1944, and S340, p.108). Some 'non-employed' women were doing voluntary work which was vital to the war effort.

48. For discussions of the size and sex ratio of the postwar U.K. labour force see Metcalf and Richardson (1980, pp.237-41).

49. The tax system, for instance, favours married men with an additional tax allowance. Widow's benefits in both state and occupational pension schemes are only permitted in respect of a legally married wife (see Chs. 8 and 9). Due, supposedly, to an error in Parliamentary drafting, it is legal to refuse a job to an applicant on the grounds that they are not married, provided that men and women are treated alike in this respect. It is still allowable to give paid maternity leave on a discretionary basis to single women (Hewitt, 1975, pp.9-10).

50. Civil Service pay was based on a principle of 'fair relativity': men were paid in relation to comparable work outside the service, and women were paid x% less (RCEP, 1946, S47, p.14). In teaching and the Civil Service women got about 80% of the comparable male rate (ibid., S90, p.27). Salaried local government women employees got two-thirds to eleven-thirteenths of the male rate (S113, p.35). This appears to have led to many anomalies as between the different grades of employee, which were resented by women. The Royal Commission was told of a chief county librarian earning £450 p.a. who had died suddenly and been replaced by a man earning £600.

51. The Association of Assistant Mistresses had surveyed their membership finding that 31% of their respondents had a fully dependent relative - 16% had more than one. A further 20% had supported relatives financially or were expecting to. Of the headmistresses, only 51 out of 353 never had and did not expect to give such support. Civil Service witnesses stated that of those women of executive grade or above, aged between 40-50, 55% were fully or partially supporting dependants. The Royal Commission was reluctant to accept this type of evidence (RCEP, Minutes of Evidence: 23/3/1945, p.87; 18/5/1945, p.153).

52. The existence of National Insurance widows' pensions for older women and widowed mothers of dependent children lent reality to this line of thinking. There was, in addition, a low divorce rate at this time.

53. A totally unscientific survey among the writer's school and university friends who left the labour market for married motherhood in the late 1950s and early 60s revealed that almost all cashed in their employee contributions and spent them, typically, on refrigerators and washing machines. A single 'job-changer' put hers towards a car.

54. Five texts were published between 1960-1979: they are much quoted in the technical pensions literature, the authors being highly placed in the field of private sector pension provision.

55. The same formula employed by the Civil Service.

56. Not published until ten years later.

57. The plan ruled out the notion of providing 'housewives' with pension credits for periods spent outside the labour market due to domestic responsibilities (DHSS, 1969, Appendix 1, (8), 27-28, pp.56-57.

58. For discussion of the role of trade unions in promoting equalisation of pension scheme terms, see McGoldrick (1984, Ch.8).

Part IV

Equal Treatment for Men and Women in Occupational Pension Schemes: Some Issues

'For women.....the labour market is the hard core of a most impermissive society in which the formal equality of the sexes is mocked by occupational realities.'

(O.R. McGregor, 1972, p.58)

Part IV

Equal Treatment for Men and Women in Occupational Pension Schemes: Some Issues

Introduction

Part IV of this study addresses current issues of unequal access, treatment and status as between men and women with regard to membership of occupational pension schemes and entitlement to benefits. In focussing on the continuing exclusion of pension and retirement provision from UK sex discrimination legislation and on female economic activity, Chapters 5-7 seek further to explain women's under-representation in membership of occupational pension schemes and unequal access to scheme benefits.

Chapter 5 discusses occupational pension provision in relation to the limited extent to which relevant legislation requires employers to treat men and women scheme members equally and makes reference to recent developments which seek to bring occupational social security benefits within the scope of the European Community's sex discrimination directives. This chapter identifies two major discriminatory practices within UK statutory pension provision with considerable implications for occupational pension provision. The first is the operation of a differential 'pensionable age' of 65 for men and 60 for women and the second, the differential entitlement of men and women to confer statutory survivors' benefits. These practices are discussed in Chapter 6 with particular reference to the differential 'normal' retirement ages to be found within the rules of occupational pension schemes and to eligibility to confer occupational survivors' benefits.

Chapter 7 continues the discussion of female economic activity

and of the traditional domestic division of labour begun in Chapter 4 by addressing female access to paid employment and the location of women in the occupational structure, in the context of female access to and exclusion from occupational pension provision.

These chapters raise issues and document events which challenge the traditional order whereby men are constructed within the rules of occupational pension schemes, as elsewhere, as the major 'providers' in the marital household. Women, by contrast, are constructed as persons who, despite engaging in paid work for an increasing proportion of their adult lives since World War II, are none the less 'normally' financially dependent upon a husband or on financial provision made in consideration of a husband's death. The field of occupational pension provision is but one area which is being profoundly affected by a gradual but evident shift in the financial and social position of women towards a greater degree of independence within and subsequent to marriage. In particular, more marital households have come to consist of two earners during a period when high inflation has been succeeded by high unemployment. Hence the question of replacement of a wife's earnings is being accorded more serious consideration than once was the case, though traditional attitudes die hard and it would seem that in the mid-eighties, any moves towards establishing a non-discriminatory occupational pension system in the UK are likely to come as a result of pressure from the EEC rather than from indigenous sources.

Chapter 5

Occupational Pension Provision and Sex Discrimination: Issues of Equal Access, Treatment and Status

This chapter is concerned with the limited extent to which occupational pension provision is currently subject to legislation prohibiting unequal treatment as between men and women. It first briefly accounts for the exclusion of pensions from existing sex discrimination legislation in the UK and next discusses the context in which an 'equal access' clause was included in the SSPA 1975. It then addresses the report of the OPB (1976) on 'Equal Status for Men and Women in Occupational Pension Schemes' and the consultative documents subsequently circulated by the DHSS. Finally, the continuing unequal treatment of male and female scheme members in the absence of action on the recommendations of the OPB is reviewed in the light of recent challenges to the British status quo arising from the 'Worringham' case[1] and the Draft EEC Directive on the Implementation of the Principle of Equal Treatment of Men and Women in Occupational Social Security Schemes (1983).

I Occupational pension provision and sex discrimination legislation

Pension provision is specifically excluded from coverage by the EPA 1970[2] and the SDA 1975[3]. The EPA excepts the terms of a contract relating to death or retirement or provision made by an employer in this context, although, from April 1978, employers have been obliged to conform with the 'equal access' requirements of the SSPA 1975 (see SDA 1975, Schedule I, Part II, 6 (1A) (a) and (b), p.68).[4] It had

originally been hoped to include pensions in the Equal Pay Bill 1970, but at a late stage, Mrs Castle, then Secretary of State for Employment, announced that there was insufficient time to include such a 'complex matter' within the Bill (H of C, 801, col 1788, 27/5/1970).(5)

During the report stage of the Bill, a Government amendment had been moved to include pensions under 'equal remuneration' (H of C, 801 col. 736, 23/5/1970). It was argued that without such inclusion, employers who wished to give greater monetary compensation to a man than a woman for equivalent work, would be able to do so 'by giving that man much more favourable pension conditions' (ibid., col. 737). It was accepted that there would be continuing differences in the state pensionable age and that women had a greater life expectancy which could properly be reflected in differential pension payments as between the sexes. However, men and women should have 'an equal entitlement and eligibility' to belong to an employers' pension scheme 'for the grade or class of work in which they are engaged'. They should also have the right to contribute on the same basis (ibid.). The debate on this amendment, which was withdrawn when Mrs Castle as Secretary of State for Employment promised to consider the matter further, revealed the complexity of the issues involved. Her deliberations convinced her that the issues were indeed too complex for inclusion, despite the Government's recognition that it was 'anomalous not to provide safeguards against discrimination between men and women in occupational pension schemes' (H of C, 801, col. 1788, 27/5/1970). She promised that there would be legislation before the EPA became law in 1975 to 'prescribe a suitable date for equalising men's and women's pension rights, taking due account of any inherent differences between men

and women in regard to pension needs.' (Ibid., col. 1789)

The SDA excludes 'provision in relation to death or retirement' (Part II, 6(4), p.4) nor, despite the prohibition on the practice of discrimination of 'goods, facilities and services', is it unlawful to treat men and women differently 'in relation to an annuity, life insurance policy --- or similar matter involving the assessment of risk' by virtue of 'reasonable' actuarial considerations, 'other data' or 'relevant factors' (S45, p.28).

As explained, the SSPA 1975 contains an 'equal access'[6] clause, discussed below, that is, a requirement (S53(2), p.46) that occupational pension scheme membership be 'open to both men and women on terms which are the same as to age and length of service needed for becoming a member and as to whether membership is voluntary or obligatory'. (See Part IV, S53-56, pp.46-49) Any rule providing for discretion in a scheme must apply equally to both sexes (OPB, 1976, S2.23, p.10). Otherwise, occupational pension schemes are allowed to treat men and women members differently (Ellis and Morrell, 1982, p.16). However, as will be seen, certain provisions of EEC legislation can potentially affect British provision at present - Article 119 of the EEC Treaty and three Directives (ibid.).[7] There is also a Draft Directive (1983) at an advanced stage of progress which is intended to directly affect equal treatment for men and women in the member states as regards occupational pension provision.[8] Since ' the supremacy of Community law is now well established and accepted by the English courts' (ibid.), it can be argued, as by Boden, (1980, p.374) that 'the current exclusion for pensions in English law' will become 'meaningless. The impact of this on U.K. pension provision could of course be profound'.

'Equal access' and the SSPA 1975

The 'equal access' clause applies to both 'contracted-in' and 'contracted-out' schemes (OPB, 1976, S9.20, p.88). A duty is laid on the trustees and managers of private pension schemes and on those responsible for the administration of public pension schemes to bring them into conformity with these 'equal access' requirements (SSP, 1975, S54, p.47). A duty is laid upon the OPB to 'advise whether the rules of a scheme do or do not in the Board's opinion conform with equal access requirements' (ibid., S54 (2), p.47). If the Board determines that the rules of a scheme do not so conform, it can order modification of a scheme by authorised persons, or itself, by order, modify the scheme (ibid., S56, pp.48-49).

The 'equal access' requirement was designed to put an end to practices documented by the Board (OPB, 1976, Ch.9) such as employers commonly admitting women to membership of an occupational pension scheme at a much later age than their male colleagues or, less frequently, requiring a longer period of service from women as compared to men, before granting access to scheme membership. Such exclusions rested on the assumption that the vast majority of young women would leave pensionable employment before the age of 25-30 after comparatively short service in an employment to which they would not return. Thus, arrangements to admit young women to schemes at some specified age within such an age-band as 25-30 were predicated on the notion that women who remained in service to such an age were likely 'career-women'. The more generous employers credited previous years of service to such female 'career' employees, once they reached the stipulated age for inclusion in a pension scheme (see, ibid., S3.5(c), p.14).

With the enactment of legislation containing this 'equal access' clause, it became illegal for employers to operate pension schemes which discriminated against women at the time of entry with regard to age or length of service, and as to whether the scheme was voluntary or compulsory. However, even this limited provision had its weaknesses. The OPB (1976) noted that it still appeared to be 'legally permissable for employers to continue to exclude married women from schemes while admitting married men' (ibid., S9.33, p.93) and that there appeared 'to be doubt how far entry to schemes at the employer's discretion' were subject to the 'equal access' clause (ibid., S9.34-36, p.93). It also appeared that, under the terms of the SSPA 1975, it remained permissable for employers to impose longer 'waiting periods' for entry to membership of schemes on women provided that 'benefits were later awarded automatically, in respect of these waiting periods' (ibid., S9.38, p.94). Thus, in respect of the age of entry to schemes, it was deemed that the 'equal access' requirement in respect of age at entry was being met if membership was subsequently conferred on women who passed what was, in effect, an additional test - that of staying with an employer long enough to qualify for retrospective membership. The law interpreted 'membership' as including a waiting period for entry, where the woman, in effect, showed herself to be a 'career' person. This practice has now been successfully challenged in respect of the Lloyd's Bank pension scheme by the Worringham case, with implications for other schemes which embodied similar practices.

The 1974 White Paper 'Better Pensions' had stated that the Government proposed to follow legislation on 'equal access' with a detailed review of 'all the considerations relating to providing cover for women in occupational pension schemes to see whether there are other respects

in which action is required to ensure that schemes do not discriminate against women' (DHSS, 1974, S76, p.21) as well as addressing the question of the representation of women on boards of trustees and management of occupational pension schemes. Thus, when the SSPA 1975 became law it had already been made clear that 'equal access' was merely intended as a first step towards ending sex discrimination in such schemes. In accordance with section 66(1)(b) of the Act, Mrs Castle, as Secretary of State for Social Services, requested advice from the OPB on 'what further steps were needed to achieve equal status in occupational pension schemes' (OPB, 1976, S2, p.XV). As the Board noted (ibid.), it was not asked to consider whether equal status was desirable.

'Equal Status': the OPB report 1976

The OPB report on 'Equal Status for Men and Women in Occupational Pension Schemes', published at the height of the holiday season in August 1976, was the first comprehensive report on women and occupational pension provision. It used evidence from a large number of interested organisations and individuals in drawing up its various recommendations for 'legislation to help achieve equality of status for men and women in occupational pension schemes' and indicated other desirable changes which might be achieved by voluntary action (S15.37, p.192).

Reference has been made in the previous chapter to the report's findings on the treatment of women in occupational pension schemes up to the passing of the SSPA 1975. This section focusses on the Board's interpretation of the term 'equal status' made in the light of the above evidence. 'Equal status' was construed as meaning 'identical treatment for men and women in identical circumstances' (equal benefits)

rather than as deriving from principles linked to 'a comparison of the amount spent by an employer on the 'average' man or woman in his (sic) employment or from the actual financial value of different 'packages' of benefits (S6.29, p.41).[9]

The main areas of differential treatment of men and women in occupational pension schemes which would initially remain after the new legislation became operative in April 1978 were identified as:

1) the lower 'normal retirement age' of 60 for women which was characteristic of the majority of schemes, so that women usually retired earlier than men, often with a shorter period of service in consequence from which the occupational pension benefits could be calculated (S3.5a, p.13).

2) the payment of survivors' benefits to widows only, in most schemes exceptions sometimes being made for 'dependant' widowers (S3.5b, p.14).

3) men being able to satisfy entry conditions more easily than women, especially because 'some groups comprising mainly women, especially part-timers, are excluded from many schemes' (S3.5c, p.14).

There were other areas of differential treatment. Higher lump sums were sometimes payable to women on commutation of part of the pension, or lower deductions were required from a female pensioner where part of the eventual pension was to be allocated to a dependant, though higher contributions were required of women in pension schemes who wished to pay in for additional benefits for themselves (S3.6, p.14).

Other differences in the treatment of men and women were related to the adjustment of benefits when the scheme member retired before or after 'normal' retirement age. Though it appeared to be increasingly common for the same factors to be used in calculating the amount of such benefit for male and female scheme members, where differential factors were still in use, men retiring early were accorded a larger reduction in pension on early retirement and a larger increase on late retirement (S3.7, p.14).

Reference was also made to possible inequities in the treatment of men and women members where discretion is exercised by scheme trustees, for instance with regard to scheme entry and the treatment of temporary absences (including maternity leave) (S3.8, p.14). Also noted were some schemes where women paid lower contributions on account of no cover being provided for survivors and a few 'final salary' schemes where higher benefits accrued to men on the grounds of shorter male average life expectancy or where benefits were, conversely, higher for women on the grounds that the period of service from which their pension benefits would be calculated was shorter (S3.10, p.15). In the now relatively uncommon 'money-purchase' schemes, it was reported that 'the rates of benefit are lower for a woman than for a man for the same amount of contributions paid at the same age.'

The differences in the treatment of men and women were accounted for under three headings:

a) different state pension ages

b) differential mortality between the sexes

c) differences in male/female employment patterns and social attitudes towards the roles of men and women in society

(S4.2, p.17).

The Board viewed the existence of different state 'pensionable ages' for men and women as an insuperable barrier to the introduction of comprehensive 'equal status' legislation. While such legislation was desirable, in principle, it could not 'reasonably precede legislation to equalise pension ages' in the state pension scheme (S15.37, p.192).[10] A further key factor in differential treatment was identified as residing in differential mortality as between the sexes, in that, actuarially speaking, women outlive men by several years (S4.6 - 4.15, pp.18-21; Ch.6, pp.33-41).[11] It was felt that this should not be a factor in calculating pension contributions or benefits (S9, p.196).

The Board also noted differences in male and female employment patterns (S4.16 - 4.23, pp.22-23), [12] with greatly increased female economic activity since the Second World War, including a substantial rise in the number of part-time female workers. The differential treatment of men and women in occupational pension schemes was felt to reflect widely differing views on the role of women in society (S4.21, p.23), identified as 'traditional', 'moderate' and 'radical'. The first reflected acceptance of the traditional division of domestic labour as between male breadwinner and non-earning housewife and the second recognised the presence of many women in paid employment who nonetheless fitted their paid work around their domestic responsibilities. The third view represented a wish to see the end of women's financial dependence on marriage, with the help of improved state child care provision and changed employment practices which would allow both men and women to share the domestic responsibilities of the home.

In attempting to define 'equal status' the Board was mindful of evidence received indicating that 'where there was a difference in

the treatment of men and women in occupational pension schemes, the difference could be viewed by different people as favouring either men or women' (S6.1, p.33). In this light, the Board had felt bound to give consideration to the actual form which 'equal status' should take. One possibility was to give men and women members 'package deals' which were different but equal in value (S6.2, p.33). However, the Board concluded that 'the test of equal status should start from the premise of equal benefits, that is, identical treatment for men and women in identical circumstances' (S6.29, p.41).

Having considered evidence for and against 'identical benefits' as opposed to 'equal packages' the Board came to the conclusion that the case for the latter was weak, and it refuted assumptions that male and female members of occupational pension schemes had needs which derived from 'characteristics which are felt to apply to men and women as separate groups' (S6.25, p.41). In particular the Board refuted arguments which were based on the assumption that men have greater income maintenance needs for themselves in retirement or for their survivors after death, than do women (S6.25, pp.40-41).[13] Nor did the Board accept the greater longevity of women as justifying the payment of lower benefits to women (S6.25, p.41).[14] In accepting the notion of occupational pension benefits as deferred pay, the Board saw merit in arguments for equal pension rights, with the cost to the employer not being 'the determining factor' in deciding whether men and women were to be treated equally (S6.28, p.41),

> '... although the cost of pension provision must depend in part on group characteristics reflected in actuarial calculations, the only unambiguous way of measuring equal status for the

> individual is in terms of the benefits - including dependants' benefits, actually provided' (S6.28, p.41).

Basic to the achievement of equal status would be a common pension age in the state pension scheme from which common 'normal' retirement ages for men and women in occupational pension schemes could be derived (S7.55, p.58).

The implementation of equal status for men and women in occupational pension schemes

The OPB made a large number of recommendations requiring a change in the law. Broadly speaking these covered supplementation of the existing 'equal access' requirements to ensure equal treatment in relation to marital status, rules regarding earning levels at which employees could qualify for entry to schemes, waiting periods where benefits were given retrospectively, individualised pension arrangements and the exercise of discretion re admission to schemes. It was also argued in relation to 'equal access' that pension schemes should not practise 'indirect discrimination' and that such discrimination in relation to scheme entry should be illegal under provisions analogous to those in the SDA 1975[15] with the individual employees being able to complain before an industrial tribunal (S15.3, p.182). It was also recommended that there should be additional provision for pension cover during maternity leave, new powers for the courts in situations of divorce/separation involving occupational pension rights, better advice to scheme members, better access to information and a requirement for joint exercise by members and spouses of certain options affecting

survivors' benefits (S15.3, p.18).

Regarding further steps to achieve 'equal status' which would extend the notion well beyond the concept of 'equal access' as amended above, the Board weighed the merits of attempting progress by legislation as against voluntary action. It argued that on evidence, it would be impossible to achieve 'equal status' without equality of state pension age, not least because 'contracting-out' arrangements are based on the concept of a partnership between state provision and occupational pension schemes (S15.17, p.186). The two sectors are legally 'harmonised', a status which is 'inconsistent with a statutory obligation for one partner to assume basic requirements which do not bite on the other partner' (ibid., p.187). Where occupational pension schemes have a 'normal' retirement age of 65 for both sexes, the terms of the SSPA 1975 require that women scheme members must be permitted to retire at 60 without their employer's permission, albeit with a reduced pension. The same problem with regard to 'harmonisation' applies to survivors' pensions, which are at present available only in limited form in state provision (S15.18, p.187).

The Board concluded that early legislation on equal status would not be feasible. They were impressed by the number of witnesses who emphasised the volume of legislative requirements which were arising from the SSPA 1975 and fully stretching the efforts of occupational pension scheme administrators (S15.20, p.187) and their professional advisers, who were also concerned with the effects of other changes in both the tax code and employment legislation (S15.20, p.188). It was also pointed out that equal pay and sex discrimination were measures

newly introduced and that particularly where matters of 'indirect' discrimination are concerned, legislation on sex discrimination 'causes particular problems because by its nature, it cannot be clear-cut and thus runs the risk of creating misunderstanding and even industrial friction'. The Board was reluctant to legislate so as to bring the complicated area of pension provision within the orbit of an as yet largely untried area of legislation, lest this move should 'inhibit the development of occupational schemes or even lead to some reduction in provision' (S15.21, p.188). It was also argued that legislation would require the appointment of more administrative staff and professional advisers in the pensions field, with consequent expense, and would place new and uncharted burdens on industrial tribunals who were not, in general, dealing with pension matters (S15.22, p.188).

However, given the intention of the Council of the EEC to issue a directive on the progressive implementation of the principle of equal treatment in the field of social security as well as the existing sex discrimination legislation, and notwithstanding the fact that the Board considered that the time was too early for 'equal status' legislation covering occupational pensions, the Board did address itself to the possibilities for such legislation. These possibilities covered 'direct' and 'indirect' discrimination, both in scheme rules and contracts of employment and in 'employment practices and the discriminatory exercise of discretionary powers, which could involve either direct or indirect discrimination' (S15.23, pp.188-189).

With regard to legislation prohibiting direct discrimination, the Board felt that a requirement could be laid on the trustees and

administrators of schemes and that 'where, exceptionally, benefits are regulated solely by contract, that contract' might 'also comprise the "rules" of the scheme' (S15.24, p.189). Alternatively, the model for legislation might approximate more to that adopted for tax approval of pension schemes, which could allow for more flexibility in applying the rules to individual schemes. However, there were disadvantages to this approach. The 'sanction' for failing to comply with the rules would in this case have to be withdrawal of tax approval, which might penalise members. There would be problems in that schemes were only normally scrutinised by the Inland Revenue when approval or modification was sought. Finally, an exercise of discretion in approving schemes could mean the retention of inequality in some schemes, which would make dealing with 'indirect' discrimination impossible (S15.25, p.189).

With regard to 'indirect' discrimination, the Board felt that legislation analogous to the SDA should prohibit 'indirect' discrimination arising from scheme entry conditions - this could also cover other matters such as survivors' pensions or qualifying conditions for preservation arrangements. Individuals would have the right to pursue their grievances before an industrial tribunal or similar body (S15.27, pp.189-190). The Board also considered that legislation should cover the operation of discretionary powers by employers or trustees of pension schemes (S15.28 - 15.29, p.190). However, they noted that an area of complication might occur where both employer and trustees were involved in the exercise of discretion, for instance with regard to early retirement. The trustees' exercise of discretion to permit such an early retirement would have been taken in the context of an

employer's decision to retire a member of staff early on a full pension. Thus, in respect of possible sex discrimination, there would need to be a direct remedy against discrimination by persons exercising a discretionary power or operating a discriminatory employment practice, since a procedure such as suing under trust law for breach of trust would be a less desirable remedy (S15.30, p.190).

The Board made it clear that given the barriers to the achievement of 'equal status' resulting from the unequal state pension ages and survivors' benefit provision, 'it would be both premature and unfair to introduce legislation which put a blanket prohibition on differences in the treatment of men and women in occupational pension schemes', since there would have to be such 'important exceptions' (S15.32, pp.190-191). However, there appeared to be considerable scope for voluntary action, not least because schemes had been moving towards greater equality of treatment between the sexes, most having 'identical treatment for men and women in relation to personal benefits and the availability of options' (S15.33, p.191). It was argued that one-third of schemes had equal pension ages and that there was 'some movement' towards equal survivors' benefits (ibid.). The Board was hopeful that these trends would continue without legislation and expected 'the question of equal status to figure more prominently in discussions and negotiations over scheme improvements' (ibid.).

It was argued that there was a case for immediate action on a voluntary basis for equal availability of allocation options, commutation options and additional benefits, together with equal benefits on early or late retirement ('subject to differences to take account of pension age'), and where additional benefits were financed by an employer.

The Board felt, by a majority, that there should be equal early retirement ages and equal 'upper' entry ages to schemes, even where pension ages were different - a majority of the Board thought that there should be 'no restrictions, wherever practicable' on women being able to remain in employment until men's pension age (S15.34, p.191). The Board also favoured equal provision for orphans for all scheme members (S15.34, p.192).

The provision of equal survivors' benefits for widows and widowers was seen as a medium-term goal to be achieved initially by voluntary action, as resources permitted, though voluntary action was not a feasible means of achieving equalisation of 'pension ages' in occupational pension schemes (S15.35, p.192). The Board felt that a point had been reached where 'many pension schemes are responding to changing social attitudes' with 'men and women being treated equally in many cases despite the difficulties imposed primarily by unequal pension ages' in the state scheme. However, there could be 'no certainty' as to 'when and how' equal status would be achieved by voluntary action (S15.36, p.192).

The Consultative Documents

The OPB report was published on August 18th, 1976. A first Consultative Document on Equal Status for Men and Women in Occupational Pension Schemes (DHSS, 1976) was then issued with comments invited from interested parties by October 1st, 1976. This was a very short time-scale indeed to allow for considered responses to a detailed document, not least because it included a holiday period.

The document declared that 'The Government are committed to the principle that women should have a fair deal in occupational pension schemes. They intend to eliminate discrimination against women in such schemes and to secure equality of status for men and women in this field' (S2, p.1). The Government defined the principle of 'equal status' as meaning 'equal benefits' so that men and women should generally receive identical benefits in identical circumstances. However, two major exceptions would continue to be equal pension ages and equal survivors' benefits, these being differences in the State scheme which the Government 'cannot yet tackle' (S7 and 8, p.3). With respect to other differences in treatment, the Government felt that there was a strong case for greater reliance on securing equal treatment by means of legislation, rather than relying on voluntary action to the extent that the Board proposed. It was pointed out that occupational pensions had been left out of Equal Pay and Sex Discrimination legislation 'because of the difficult issues and social economic questions which the Board was asked to study' (S9, p.4).

The Government proposed to proscribe, by legislation, the use of mortality differentials as between men and women in calculating levels of contributions or benefit in schemes (except in the case or personal 'options') since 'there are known to be differences in mortality rates between other groups in the population which are not commonly brought out' (S14, p.7). It was proposed to rely on a mix of legislative and voluntary measures to deal with the possibility of scheme trustees' discretion being exercised in a manner which was discriminatory between the sexes (S16, p.8).

A second Consultative Document was issued in March 1977 for reply by June 30th, 1977. This outlined the development of the Government's proposals for legislation, in the light of responses to the first Consultative Document, related these proposals to EEC law and discussed how voluntary progress could best be made in areas relating to equal treatment not covered by legislation (DHSS, 1977, S2, p.1). It was proposed to introduce a bill as soon as Parliamentary time permitted, though not necessarily in the 1976-77 session (S4, p.2).

From the response to the first Consultative Document it was obvious that the 'pensions industry' (i.e. pensions and employers' organisations) were totally opposed to the introduction of the proposed legislation. By contrast, employees' and womens' organisations welcomed the idea - some indeed claiming that the proposals did not go far enough (Annex 1, S1, p.1). The opposition was committed to action on a voluntary basis only, believing that legislation would give rise to a considerable administrative burden and costs (ibid., S2, p.1). The Government weighed up the pros and cons of introducing legislation which pinpointed specific areas in which there was a need for anti-discrimination measures 'but not seeking to establish equal treatment as a general principle' (S10, p.4) as against the introduction of more general measures to establish the principle of equal treatment whilst continuing to permit such exceptions as the differential pension age and survivorship benefits. The latter approach was favoured (S10, pp.4-5). Within this approach, the Government proposed to legislate on strengthening the 'equal access' requirements (S13, p.5), on disclosure of information (S14, pp.5-6), on consultation with spouses over the exercise of options for the provision of survivors' benefits (S17-18, pp.6-7), on retention of rights during maternity

leave (S19-20, pp.7-8) and on the power of the Courts with regard to pension rights on divorce (S21-23, pp.8-9).

The Government intended to impose a 'non-discrimination' requirement in addition to the existing 'equal access' requirement, applicable once a woman had become a member of a scheme (S24, p.10) However, it was not felt that amendment of the EPA was the most promising vehicle for enforcement. Firstly, it would be necessary, under the provisions of that Act, for a woman to be able to measure her claim against that of a 'comparable' man. Secondly, the discrimination would need to have arisen out of the terms and conditions of employment (S26, p.10). The Government was more inclined to base legislation on the SDA 1975 rather than to make further use of the EPA 1970 (S27-28, p.11). In this way, 'indirect discrimination' could be covered and the requirement would be to establish that the occupational pension scheme member concerned was being treated less favourably than a person of the opposite sex thus obviating the need to establish the existence of a 'comparable' man or woman. It would be open to the employer, trustees or managers of the scheme to show that the treatment being challenged was justifiable, irrespective of the gender of the person concerned (S27, p.11).

However, simply extending the scope of the SDA 1975 did not seem a satisfactory solution, since major exceptions were to remain with regard to pension ages and entitlement to survivors' benefits in employers' pension schemes (S29, p.11). There appeared to be more potential in the notion of bringing'equal treatment' legislation into one statute, thus enabling the test of 'detriment' used in the SDA to be replaced by a 'direct reference to entering, remaining in or benefitting under a scheme, thus defining more clearly the particular circumstances in

which equal treatment is required' (ibid., p.12). Meanwhile it was proposed to introduce the 'equal access' requirements of the SSPA 1975, as planned, in April 1978. Later, revised equal access requirements could come into force, with two years' notice given before they became compulsory (S37, 38, pp.13-14) along with the new non-discrimination requirements.

Complaints, under the new legislation, would be dealt with by an industrial tribunal: such a tribunal would be empowered to refer to the OPB any question needing a ruling on the scheme's conformity with legislative requirements. A tribunal, having upheld a complaint and identified the exact subject matter of that complaint, would be able to suggest an appropriate remedy (S39, pp.15-16). It was also proposed to 'extend the duties of the Equal Opportunities Commission' to cover discrimination in the occupational pensions field, including review of the operation of legislation and the issuing of non-discrimination notices (S40, p.16).

Despite these detailed recommendations, no further action was taken by the Labour government on 'equal treatment' for men and women in occupational pension schemes. No further document was issued relating to the comments on the second Consultative Document which had been requested by June 30th, 1977. Neither of the succeeding Conservative administrations of 1979 or 1983 has addressed this issue. Impetus toward change has in fact come from outside the U.K., since the European Community is committed towards a goal of equal treatment in occupational social security schemes and has (1983) a Draft Directive in circulation.

II The EEC and sex discrimination in occupational pension schemes[16]

Over a period of twelve years, since the issue of sex discrimination in pension provision was debated in relation to the EPA, the only British legislation passed is that requiring equal access for men and women to membership of occupational pension schemes. Considerable interest has, accordingly, been shown in the potential of European Community law to affect occupational pension scheme rules and practices. In Lord Denning's judgement 'Community law has priority' where there is any inconsistency between EEC law and British law (Ellis and Morrell, 1982, p.16, note 4). Hence the potential of favourable judgements of the European Court of Justice to bring about movement towards equal treatment of men and women in occupational pension schemes.

Article 119 of the Treaty of Rome established the principle of 'equal pay for equal work'[17] and was followed by three directives with possible applicability in the context of occupational pension schemes.[18] Of specific interest in this connection is the case of Worringham v. LLoyds[19] Bank (Court of Justice of the European Communities, 1981) which 'provided opportunity for judicial clarification' (Ellis and Morrell, 1982, p.17) regarding the possible applicability of Article 119 to occupational pension provision.

The case concerned two young women clerical officers at Lloyds Bank, which in the mid-seventies, for historic reasons (see Ellis and Morrell, 1982, pp.17-18) operated, quite legally, two separate retirement schemes for male and female permanent staff. Unlike other clearing banks which had non-contributory pension schemes, Lloyds required contributions, but offered extra gross pay to staff so as to bring their

salaries into line with those of their 'competitors'. However, whereas young men were required to contribute to the scheme from entry and were paid an extra 5% of salary, which was promptly clawed back in contributions, women were treated differently.

Young women, by contrast, were subject to a 'waiting period' during which they were, technically, in membership of their occupational pension scheme[20] but were not 'required' (i.e. allowed) to make contributions until they had reached the age of 25,[21] at which point they started to pay contributions on exactly the same basis as their male colleagues. In effect, women belonged to a 'non-contributory' pension scheme up to the age of 25, at which point the 'stayers' were blanketed-in as contributors to their scheme with their total previous years of service credited towards an eventual retirement pension, calculated on the same formula for both sexes. The minimum age at which any employee could derive future benefit from the scheme was 26, after a minimum of five years' completed service.

This strategy was convenient and cost-effective - from the bank's point of view. At the time when Ms Worringham and Ms Humphries first challenged it, Lloyds Bank claimed that 70%-80% of their female employees were leaving while under the age of 25, so that the different contribution rules for women saved costs (Ellis and Morrell, p.17, note 16). The two clerical officers in fact left Lloyds service when still under 25 years of age, but, unlike comparable male colleagues, had no accrued occupational pension contributions to transfer elsewhere or 'cash in'.[22] In 1977 they brought a case before an industrial tribunal claiming 'equal pay' with their young male colleagues on the grounds that they

had been engaged in 'like work' with their male colleagues in that age group. However, the male colleagues had been paid 5% more and, if they left at the same age and with the same service as their female colleagues, they were entitled to the value, in some form, of their pensions contributions. The women got no such entitlement: Ms Worrington and Ms Humphries claimed that this was sex discrimination.

When the facts of the case were eventually set out before the European Court, it was pointed out that the 5% higher 'gross pay' received by the men incorporated other indirect advantages not enjoyed by the women. 'Collateral benefits' were mentioned in this context, such as 'unemployment benefits, over-time payments, redundancy benefits, credit facilities, etc.', the amount of which would have been related to a week's pay (Court of Justice of the European Communities, 1981, p.5).

The women's claim was originally dismissed, since the industrial tribunal found that their case rested on an interpretation of the EPA and, being concerned with retirement and death benefits, did not come within the scope of this Act (Ellis and Morrell, 1982, p.18). This judgement was overturned by the Employment Appeal Tribunal which held that there was indeed an 'inequality' in gross pay so that the case did come within the scope of the EPA (ibid., p.19). The employer appealed, the case went to the Court of Appeal in consequence, which invoked the SDA in its interpretation of the pensions exclusion clause in the EPA (ibid.). This led in due course to a case of immense technical detail being brought, on the iniative of the Court of Appeal, before the European Court of Justice (ibid., p.20).[23]

The aim of this action was to test the applicability of Community law 'to the refund of employees' contributions, so as to entitle the claimants to the sum which they would have received had they been men' and to obtain a ruling on 'the wider and more important issue as to whether Community law applied in general to an occupational pension scheme such as that provided by Lloyds Bank' (ibid.). Thus, the Court of Appeal wished to know whether Article 119 of the Treaty of Rome applied in such a way as to cancel out the EPA (Ellison, 1981, p.295). Also, since this was a test case of great legal importance in terms of precedent, the Court of Appeal sought the European Court's opinion on matters of detail (ibid). The two broad issues were whether 'Article 119 or the directives applied to the refund of employees' contributions' and hence entitled the claimants to a refund, and, secondly, whether Community law applied generally to such schemes, so that contributions and benefits are 'subject to the principle of equality' (Ellis and Morrell, 1982, p.20).

The European Court ruled in March 1981 that the 'extra 5%' did form part of pay, within the meaning of Article 119, and thus 'there was no need ... to answer the broader question as to whether the rights and benefits that the employee enjoyed, generally, under the pension scheme, were within the scope of Article 119'(ibid., p.21). Ellis and Morrell, commenting on this judgement, argue that 'even if the spirit of Article 119 extends to non-state pension schemes, the Court is most unlikely to hold that it can be enforced directly in that context' (ibid., p.22). The Court of Appeal in due course declared that the women employees of Lloyds Bank should be paid in accordance with the

'equality clause' of the Equal Pay Act (section 1(1), as amended, as well as in accordance with Article 119 of the Treaty of Rome (TUC, 1983b, p.6). They were entitled, on leaving the bank, to be paid an equal refund of pension contributions to that which would have been allowed to males employed on like work, in whose name contributions had been paid to an occupational pension scheme (ibid., p.7). A settlement was agreed to by Lloyds, for whom the case 'has entailed enormous financial consequences'.(24)

Ellis and Morrell (1982, p.25) have since pointed out that as of 1981 there were still many differences in the treatment of men and women in British occupational pension schemes and 'practical obstacles to be overcome in removing the current differences without further legislation and without the prior removal of differences in the state scheme'. They also noted that there are different perceptions of 'equality' with regard to occupational pension provision. Employers tend to think in terms of 'equality of cost' in providing for male and female scheme members: employees tend to think in terms of access to pension benefits (ibid., pp.26-27). While this latter approach was the one supported by the OPB in its 1976 report, even if it were to be supported by the European Court of Justice 'its implementation by the courts, without the aid of further legislation, would be far from simple'(ibid., p.27). Not only was there the question of a common age of retirement for occupational scheme members in the fact of a persisting differential state pensionable age. In addition, it could be argued that extending survivors' benefits to widowers would be an inefficient use of resources if this facility were to be provided on a universal basis. A preferable

alternative might be to provide 'a range of options' which would facilitate 'whatever provision for survivors best suited their individual and family circumstances' (ibid., pp.28-29). It was possible that 'unisex' actuarial tables might disadvantage women (ibid., p.28).

Although the principle of equal pay has been established in the U.K. for some years, it has not been achieved with regard to pensions. Hence, aggrieved persons look to the European Court for redress. At the time of writing, Ellis and Morrell felt that such redress was likely to be inhibited by the European Community's tendency to permit unequal treatment within the statutory pension schemes of Member States, as evidenced by the relevant Social Security Directive. They felt that there is a strong case for British legislation in the field of sex discrimination in pension provision, without which 'the position of working women can never in a real sense be equalised with that of their male peers' (Ellis and Morrell, 1982, p.28). However, the policy of the two Conservative administrations since 1979 has been that 'improvements in occupational arrangements should follow from voluntary rather than statutory action' (TUC, 1983a, p.16) and no sex discrimination legislation in the pensions field has been proposed. The 1983 administration has, nonetheless, indicated its acceptance, in principle, of the need to ensure equal treatment for men and women in occupational pension schemes (ibid.) and is required to consider the Draft Directive on occupational social security.

The Draft Directive on Equal Treatment for Men and Women in Occupational Social Security Schemes

The EEC Directive 79/7[25] on the progressive implementation of

the principle of equal treatment for men and women in matters of social security, which became fully effective in December 1984, contained a specific commitment to ensure 'implementation of the principle of equal treatment in occupational schemes' (Commission of the European Communities, 1983, Article 3, S3).[26] This document was based on a 1977 draft which included occupational provision[27] within its remit. The then British government took the view that there was no provision within Community law requiring equal treatment for men and women within occupational pension schemes (DHSS, 1977, S43, pp.16-17), but gave its opinion that, if adopted, the directive would 'oblige the U.K. to move towards equal treatment' (ibid., p.17). The draft directive thus provided 'additional impetus' for appropriate British legislation.

In the event, occupational provision was left out of Directive 7/79, but it was made clear that new proposals would be brought forward within five years (TUC, 1983b, p.4). A new Draft Directive was published in 1983, including occupational pension provision within its broad remit.[28] This draft seeks to require Member States to introduce legislation to forbid direct or indirect discrimination, on grounds of marital or family status, against women or men, but without prejudice to maternity provisions (Commission of the European Communities, 1983, Article 5, S1-2). Both compulsory and voluntary pension schemes would be covered (Article 2, S2). Equal treatment would apply in relation to the scope of schemes and conditions of access, the obligation to contribute and the basis on which the contributions are calculated, including spouses' and dependants' benefits, and the conditions governing the duration and retention of entitlement to benefits (Article 5, S1).

Among the practices deemed 'contrary to the principle of equal treatment' are those intended to 'specify those persons who may participate', lay down differential rules on age of entry, minimum periods of employment or of scheme membership required to obtain the scheme's benefits. Also contrary would be to lay down differential rules for early-leavers without a right to 'frozen' pensions, set different conditions for the grant of benefits or restrict them to workers of one sex only, fix differential retirement ages, suspend the retention or acquisition of rights during periods of maternity or family leave 'granted by law or collective agreement' or provide benefits whose level and amount differ, and, in particular, set the level of benefits by taking into account differential factors of calculation, actuarial or otherwise, with regard to the phenomena of ill-health, mortality or life expectancy'. It would also be illegal to set contributions at different rates, on such a basis. 'Transferred' or 'frozen' pension benefits would also be covered by the directive (Article 6).

The original intention was that Member States should 'take all necessary measures' to ensure that their 'occupational social security' provisions comply with the terms of the directive by 1/1/1986, with any necessary internal legislative change being introduced by 1/1/1985 (TUC, 1983a, p.3). However, the European Parliament has since set 1/1/1987 as the target date for compliance (Pensions, May 1984, p.11).[29] Member states are to be permitted to defer bringing in the principle of equal treatment in respect of the age at which scheme members become entitled to occupational retirement pensions and in respect of pensions awarded to a surviving spouse, in circumstances where the principle

of equal treatment has not yet been implemented in the corresponding statutory pension schemes (Commission of the European Communities, 1983, Articles 8 and 9). This exclusion in the draft directive mirrors that in Directive 7/79, which also specifically exempts 'pensionable ages' and survivors' benefits from its remit.

By the end of 1983, the Draft Directive had been well received by women's organisations, the EOC and trade unions, among others, but had become the subject of severe criticism from the 'pensions industry', including the actuarial profession (Pensions, May 1984, pp.19, 23). Indeed, it seems to have been this Directive which finally brought the issue of sex discrimination to the active attention of the providers of occupational pension schemes.(30) While the notion of 'equal treatment' has been given support from this quarter, such support comes only on terms which require 'equal treatment' to be operationalised not as 'identical treatment' in the sense used by the OPB (1976, S6.25-6.29, pp.40-41) but as 'equitable' treatment in the sense of making 'equal pension packages' available to male and female members of schemes. This is precisely the interpretation to which the OPB was opposed. The central point of contention is the greater longevity of women, which factor has always been used by the insurance industry as a basis for actuarial calculations.

Many of the private sector occupational pension funds are employer-administered, but operated via the insurance industry, or are 'group' schemes actually provided by insurance companies. Many of the latter as indicated previously, are small, allowing less scope for the spread of actuarial 'risks' than that offered by larger schemes (NAPF, 1983a, Table 9, p.7). It is the 'insurance interests' within the occupational

pensions sector which view the Draft Directive with especial disfavour, since its requirements run counter to all established practice. The notion of granting survivors' pensions to widowers appears to be a palatable recommendation - indeed, it is the private pensions sector which has increasingly offered such benefits in the knowledge that they are a reasonably inexpensive innovation. (See Ch.6) It is the notion of an enforced departure from practices such as offering lower retirement pensions to women for the same contributions, if a scheme so chooses, which 'has come close to bursting many an actuarial blood vessel' (Pensions Today, May 1984, p.19).[31]

In a widely quoted technical paper, Wilkie (1983) has set out some major criticisms from the actuarial point of view. In summary, he argues that there are substantial flaws in interpreting 'equal treatment' in the occupational pension context, as meaning that greater female longevity should not be taken into account in determining the amount of pension benefits or deciding the appropriate rate of contributions (Wilkie, 1983, pp.19-23). Mortality rates differ far more substantially by sex than by occupation and no legislation can alter this fact. It is 'equality' between men and women with differential longevity rates which is 'desirable and obtainable', not 'equality' as defined in the Directive (ibid., p.1). Insurance, being a group undertaking, can only be equitably arranged if all known factors, including longevity, are taken into account - others include marital status, average age of spouses and economic activity rates (ibid., pp.4-19). To operate 'unisex' actuarial tables would have unfortunate financial consequences both for individual scheme members and the occupational pensions sector in general. In essence, both men and women would find themselves paying

more for certain benefits, such as life insurance and annuities, when this had not previously been the case. Wilkie argues that a period of recession is not the best time at which to contemplate such radical change, which would increase labour costs and might well make employers reluctant to give jobs to women (ibid., pp.38-40).

The NAPF is also on record as favouring 'non-discrimination', interpreted as 'equity' of treatment - in 'packaged' form. Within this approach, the greater value of a pension, in actuarial terms, to the woman employee is traded off against the greater imputed value, to men, of a contingent benefit to a spouse (Pensions World, September 1983, p.577). The Association argues that schemes should either provide 'equal benefits' or demonstrate 'equity of treatment'; if the former is insisted upon, it should still be permissable to make sex-specific actuarial distinctions with regard to any optional benefits which the member may purchase, otherwise such benefits may be purchased more cheaply on the open market (ibid., p.578; see also Wilkie, 1983, pp.35-36; Policy Holder Insurance News, Feb. 17th 1984, p.29). NAPF emphasise that an occupational pension scheme is a voluntary arrangement between employer and employee, there being no obligation for a scheme to be set up at all. It also observes that where 'burdens' are super-imposed from without, they can pre-empt other equally or more desirable changes, such as better protection for early leavers (ibid., p.578).

There is no doubt that the 'identical' version of equal treatment as required by the Draft Directive is unpopular in the insurance world. The requirements affect the larger schemes, with privately invested funds, since actuarial calculations based on greater female longevity

can currently be applied when members of such schemes pay additional voluntary contributions, take advantage of a 'commutation' facility on retirement, or take early or late retirement (see: Pensions, May 1984, p.19). However, it can be argued that the large schemes offer greater scope for redistribution of total fund resources (Wilkie, 1983, p.3). Wilkie (ibid., p.37), among others, makes the point that the 'identical treatment' approach is fraught with difficulties in the absence of legislation to provide for equal 'pensionable ages' with the state pension scheme. There is no doubt that the Draft Directive 'brings into question long-adopted principles which have been fundamental to the ways actuaries calculate risk and the way insurance companies do business' (Pensions, May 1984, p.20).

Supporters of the 'identical treatment' approach have suggested that it may not be necessary to use 'unisex' actuarial tables in calculating contribution and benefit levels. It is possible to use sex-specific tables, but then spread the costs across the scheme membership, male and female. Thus, while actuarial considerations are allowed to enter into the computation of the total costs of standard employee pension benefits, the costs are then 'averaged' across the work force, to ensure 'identical treatment' (TUC, 1983b, S63, p.19). On the question of required retirement ages for scheme members, Finlay (1984, p.16) has inferred that there is nothing to stop occupational schemes making changes in their practices on a voluntary basis in advance of a change in state pensionable ages. She has pointed out that the EOC gets 'a stream of complaints' on pensions and argued that if, on average, women live longer, they neither earn more, nor work less hard, so that it

is questionable to assume that 'equity' means that women need lower pensions (ibid., pp.17-18). Ivor Richards, Britain's European Commissioner, also publicly stated that arrangements which give women lower pensions because of assumed greater life expectancy, are discriminatory (Pensions, May 1984, p.11).

It seems probable that the larger schemes would find it less problematic to 'average out' the costs. Ellison (1983, p.24) has observed that private occupational pension schemes tend not to exist in companies where the majority of employees are women. On this argument it may be assumed that schemes have more easily been able to sustain 'disciminatory' practices where there has been a minority of women to raise objections.

If the Draft Directive becomes effective, it seems likely that the 'pensions industry' will get to work on devising ways in which to legally circumvent it. Suggestions have been made that small firms, the self-employed and schemes not funded via employer contributions should be exempt (Wilkie, 1983, p.34). As seen above, there is support for the exclusion of 'optional' benefits and it has also been suggested that 'money purchase' schemes might also be excepted (TUC, 1983b, p.20). However, as stated by the European Commission in their explanatory memorandum to the Draft Directive and by the OPB in its 1976 report, there are many factors which need to be taken into account in calculating the cost of providing occupational pensions over and above the factor of differential longevity between the sexes (ibid., pp.11-14, 19-20).

III Occupational pension schemes and sex discrimination

There has always been 'good reason' for successive governments

to avoid legislation on sex discrimination in occupational pension schemes since the question was first addressed in the context of the EPA. The question was too complicated to be dealt with in 1970. It was omitted from the SDA in the knowledge that reference was being made to the OPB on the issue of 'equal status'. Sex discrimination was included within the SDA merely in the shape of modest 'equal access' requirements.

The OPB 1976 report offered a very comprehensive analysis of existing sex discrimination in occupational pension schemes, but was very conservative in its proposals for dealing with such discrimination. The Labour government of the time produced two detailed consultative documents, but declared voluntary action to be its preferred strategy for reducing the inequalities in the treatment meted out to women, in particular as regards membership of and access to employers' pension schemes. In the event, the 1974-79 Labour government, like its Conservative successors, took no further action regarding sex discrimination in occupational pension schemes.

At the time when the equal pay and sex discrimination legislation was in the early stages of its implementation, the highly complicated 'contracting-out' procedures accompanying the implementation of the SSPA 1975 were in progress. As shown previously, the Labour government like its predecessors, was, in 1974-75, anxious not to dissuade employers in the private pensions sector from 'contracting-out' by insisting that they should include female employees in schemes on terms stronger than those required by the 'equal access' clause. That the 'pensions industry' is hostile to the notion of 'equal treatment' in the sense

of 'identical treatment' has become apparent from the reception lately accorded to the Draft Directive on Equal Treatment in Occupational Social Security Schemes. Events indicate that movement towards 'equal treatment' in the U.K. is likely to come to the extent that it is 'super-imposed' by Community Law.(32)

However, the Draft Directive as circulated in 1983 showed itself to be a less than impressive vehicle for the achievement of equal treatment. Despite its insistence on 'equalisation' of treatment with regard to occupational social security provision, there are key omissions in the context of the British pension provision. Member states would still be able to operate differential arrangements within their statutory pension schemes as regards the provision of survivors' benefits and the determination of 'pensionable ages', as permitted under Directive 79/9. So long as such statutory arrangements persist, occupational pension schemes will be permitted to treat men and women differently with regard to their entitlement to confer survivors' pensions and the age at which their employer requires them to retire. It is on these two major areas of 'exception' that the next chapter focusses.

Chapter 6

Equal Treatment: Issues Relating to Differential 'Normal' Retirement Ages for Men and Women in Occupational Schemes and to Eligibility for Survivors' Benefits

I Normal retirement age

This section briefly explores the historic reasons for differential 'normal' retirement ages for men and women in occupational pension schemes and seeks to explain their continued existence with reference to the inter-dependent nature of occupational and statutory pension provision. A number of issues arising from the current situation are then reviewed, including the notion of a common retirement age, or age-band, for men and women.

The 'normal retirement age' is defined by the Inland Revenue as 'the age specified in the rules of a pension scheme at which the members normally retire and receive their pension (and perhaps other retirement benefits)' (GA, 1981, S8.3, p.39). In recent years, schemes have increasingly defined their 'normal retirement age' to harmonise with the 'pensionable age' which confers entitlement to a basic NI retirement pension - 65 for men and 60 for women. However, scheme members 'may well retire earlier or later than the 'normal' age with the agreement of their employer' (ibid.) and schemes may specify an upper age limit for compulsory retirement above the 'normal' retirement age.(33)

Thus, an employer may specify a 'normal' retirement age for men of 65 and women of 60 and actually compel employees of these ages to retire from work. Alternatively, 'normal' retirement ages may be so defined, but with the women being permitted to stay on at work until 65 (or earlier) if they wish, in which case they have no rights to

redundancy payments and cannot sue for wrongful dismissal (H of C, 1982, I, S152, p.iix). An employer may specify 65 as the 'normal' retirement age for both sexes in which case any woman who retires below that age is, for the purposes of her occupational pension scheme, retiring early, even though once past 60 she is of 'pensionable age'. Finally, an employer can retire both men and women at 60, as happens in the public sector, where occupational pensions are payable to men and women at that age.(34)

Connoisseurs of sex discrimination issues will recognise this situation as one in which both men and women can claim, with some conviction, to be either advantaged or disadvantaged. No 'employment protection' or 'sex discrimination' legislation affects these differential practices, which remain entirely legal and commonplace. Women can be required to retire at 60, regardless of their wishes or any financial detriment which may accrue to them, while their male counterparts can be required to work on until 65. Hence both men and women will continue to be denied 'equal treatment' in membership of occupational pension schemes so long as employers are legally permitted to operate these differential conditions of sevice with regard to the 'normal' retirement age and any associated rules defining an upper age limit beyond which scheme members may not remain in employment.

The historical background(35)

The OPB (1976, S7.11, p.45) noted a tendency for employers to assign lower 'normal' retirement ages to women in the 1930s, despite there being a common age (65) for entitlement to the contributory state old age pension. A government survey of private occupational pension schemes showed that in 1936, 39.7% of white-collar women in schemes were required to retire below the age of 60, a rule applied to no white-collar men. 10.1% of manual women were under a like requirement and,

again, none of the men. 37.2% of the white-collar women (0.4% men) had a 'normal' retirement age of 55 or below, with only 33.2% having a 'normal' age of retirement of 65 (men 52.4%). Manual women had higher 'normal' ages of retirement, but again these were lower than for comparable men (Ministry of Labour, 1938, p.174 and see Ch.1, above).

Women who were not members of occupational pension schemes were particularly at risk to poverty if required to retire from employment before the then 'pensionable age' of 65. The 1930s campaign to lower this 'pensionable age' to 55 for single women (see Ch.2) was opposed by female public servants in employers' pension schemes who feared a consequent lowering of their own 'normal' or compulsory retirement ages. Such women were, other than exceptionally, single and paid at lower rates than comparable men.

In 1940,[36] 'pensionable age' was lowered to 60 for women and left at 65 for men. This was partly a response to the demands of single women and partly to rectify the anomaly whereby the younger uninsured wives of men over 65 had been denied a pension until they themselves reached 65, forcing some onto public assistance (Thane, 1978b, p.236). 'Goodwill and sentiment occasioned by the contribution of women to the war effort' may also have helped (H of C, 1982, 26-II, S1.4, p.2). Ironically, the 'war effort' ensured paid work for most older women who wanted it.

The NI Act 1946 retained a 'pensionable age' of 60 for women, viewing the differential treatment of men and women as unproblematic since 'retirement' rather than 'old age' pensions were under discussion. 'There is no fixed age of retirement, but only a minimum pension age -- at or after which each individual has the option of retiring and claiming pension' (Beveridge, 1942, S24.4, p.96). Envisaging continuing full employment, Beveridge wished to encourage the postponement of

retirement to a point beyond pensionable age. 'The capacity of different people to work late in life varies from individual to individual. To attempt to force people to retire before their powers and desire for work fail' (ibid.) was undesirable. Hence, the provisions for an enhanced NI pension for 'late' retirers.

The Phillips Committee recognised the importance of the influence of the age at which the NI pension becomes payable on 'the age limits of other schemes and retirement practices generally' (H M Treasury, 1954, S182, p.148). In reviewing the arguments for retention of the then differential pensionable age the Committee observed that the new NI scheme had negated the original 1940 arguments for a lowering of the female pensionable age, since the younger wife of a retirement pensioner could now be classified as his dependant no matter what her age. This left the 'spinsters' plus a very small number of married or formerly married women who paid contributions in their own right. In the light of greater female longevity and in keeping with its recommendations for a longer working life for all, with consequent savings in cost, the Committee recommended a 'pensionable age' of 68 for men and 63 for women (ibid., S191, pp.50-51). The point was made that on the grounds of sex equality 'pension ages between the two sexes should be the same'. (Ibid., S192, p.51)

The Phillips Committee declared itself 'bound to recognise that women do in practice retire earlier than men' for reasons which were variously ascribed to the existing lower female pensionable age, health[37] and, tellingly, employers' own retirement policies (ibid., S193, p.51). They argued that the vast majority of women would in fact get a 'dependent wife's pension' under Beveridge's 'Housewives Charter' (ibid.) and that 'Working women, especially single women, who have to run their

homes unaided outside working hours may wish to retire as soon as possible.' (Ibid.) All but one of the Committee felt that the savings effected by the raising of 'pensionable age' for women to match that of men would be 'relatively small' and made at the expense of contributing married women and spinsters.

Dr Janet Vaughan, in her minority report, saw 'no reason why one section of the community should be in part supported by the rest of the community, at an earlier age than their contemporaries. If women expect the same opportunities and conditions of work as men, they must also expect to make the same contribution to the productivity of the country through the length of their working life'. Dr Vaughan could see no firm evidence that women were less fit than their male counterparts in the same age-group and no reason to discount small savings which might be made to the National Insurance scheme (ibid., p.93). Her views did not sway the Committee and differential 'pensionable ages' still operate.

II The current relationship between 'pensionable age' and the treatment of women in occupational schemes

> 'The fact that pensions in the state scheme are payable at 65 to men and 60 to women has led most employers to adopt these ages as the ages at which employees are generally expected to retire, and the earliest date from which any occupational pension is paid except in special circumstances such as early retirement due to ill-health. Even where pension ages in an occupational scheme are the same for men and women, state pension ages will often affect the age at which employees actually retire.'
>
> (OPB, 1976, S95, p.47)

The most recent GA survey of occupational pension schemes found that 'the normal retirement ages in occupational schemes continue to coincide with those of the National Insurance scheme' (GA, 1981, S8.4,

p.39). The following table compares 'normal' retirement ages in 1979 and 1975.

Table 19

'Normal' age of retirement for men and women in occupational pension schemes 1975: 1979, UK.

Normal Retirement Age		Private Sector		Public Sector		Both Sectors	
		1975 %	1979 %	1975 %	1979 %	1975 %	1979 %
Women:	Under 60	1	2	17	17	11	10
	60	94	95	60	64	73	78
	Between 60-65	2	-	20	19	13	10
	65	3	3	3	-	3	1
Men:	Under 60	-	1	14	13	6	6
	60	5	7	36	35	18	20
	Between 60-65	4	2	27	29	14	14
	65	91	90	23	23	62	60

Source: GA (1981), Table 8.3, p.40.

(Percentages derived from numbers in thousands)

There are significant differences between private and public sector practices. In the former sector, 95% of women and 90% of men are in pension schemes with a 'normal' retirement age which co-incides with 'pensionable age'. In the public sector, where membership of an index-linked occupational pension scheme is a virtually universal benefit for full-time permanent employees, while 64% of women have identical

'normal retirement' and 'pensionable' ages, only 23% of the men do. Far more women have a 'normal' retirement age which is below pensionable age in the public sector than in the private sector: far more women have a 'flexible' normal retirement age which permits staying in employment beyond 60. Nearly half the public sector men have a 'normal' retirement age which is below pensionable age, a situation unusual in the private sector. The 1979 survey notes that the number of employees entitled to retire below pensionable age 'appears to have stabilized in recent years' (GA 1981, S8.4, p.39). It is explained that persons of both sexes in this category are those 'in arduous employment requiring a high standard of physical fitness, in particular in the uniformed services' (ibid., S8.5, p.40).

Unfortunately, the GA's figures do not give an indication of the age of compulsory retirement for members of occupational pension schemes. It is, as noted, quite legal for employers to require that female staff retire at 60. A female employee over 60 is not entitled to statutory redundancy payments nor to sue for wrongful dismissal unless her 'normal retirement age' is defined as higher than her own age (H of C, 26-I, S151-156, pp.lix-lxi). It can be deduced that the vast majority of employed women over 60, especially in the private sector, are vulnerable to being 'laid off' from their jobs, particularly where an employer wishes to shed labour by 'natural wastage' strategies.

A survey of retirement practices was carried out in 1977 on a sample of women 50-72 and men 55-72 who had worked in the previous 20 years in Britain. It was found that men and women retiring actually at 'pensionable age' were much more likely to be receiving an occupational pension than those who retired later, though 'Men were very much more likely to receive occupational pensions than women' (Parker, 1980,

S4.2, p.26). 75% of full-time employed women under pensionable age stated that they would have to give up their current job at 60, only 19% being allowed to work on to 65: only 4% of the men were made to retire before 65 (ibid., Table A5.9, p.73). These rules were the outcome of employers' policies rather than union policies, though it appeared that whereas in the case of men, employer and union policy harmonised, this was far less the case for women. 86% of the women's retirement rules were ascribed to employers only, as compared with 65% of the men's. 14% of the women's rules were ascribed to employer and union policy as compared with 27% of the men's (ibid., Table A5.10, p.73).

There has been a long-term trend since the second World War towards both men and women retiring at pensionable age (OPB, 1976, Table 5, p.43). Single women, the group most currently likely to have substantial entitlement to a state or occupational pension benefits and to be working full-time, are least likely to work on beyond pensionable age. The GHS 1982 showed 22% of married women economically active between 60-64 and 18% of widowed, divorced and separated women. 5% of married and 4% of widowed, divorced and separated women were in paid work after 65. Only 9% of single women over 60 were shown as economically active (OPCS, 1984a, Table 6.8, p.104). Evidence from the DHSS to the Parliamentary enquiry into the Age of Retirement suggested that those who work beyond pensionable age are 'men or women in firms where there is no occupational pension, in small firms' (H of C 26-II, 1982, S136, p.91). Given the figures on women in membership of occupational pension schemes whose 'normal' retirement age is above 'pensionable age' and considering the widespread complaints received by the House of Commons Social Services Committee (i.e.: ibid., S10, p.169), it seems unlikely that elderly women workers are members of occupational pension schemes. Yet some

women could advantage themselves financially by remaining in employment to 65, if allowed, thus obtaining increased occupational pension benefits and an enhanced NI pension.

The 'normal' age of retirement: issues for female members of occupational pension schemes

As increasing numbers of women pay into the statutory pension scheme in their own right, with the phased abolition of the 'married women's option', more women in occupational pension schemes will find themselves in the position of most single women now, in having the option or being required to retire at 60 with a Category A retirement pension and whatever benefits are due from occupational schemes. In this respect, the position of women is unlike that of men, who do not under any circumstances qualify for a statutory retirement pension at 60.(38) The position of ever-married women differs also, in that they may already be in receipt of a statutory or occupational widow's pension. The financial position of women of 60 differs to an even greater extent from that of men of 65, according to whether they have been a 'main breadwinner' and whether they have sustained interruptions to their working lives (see Ch.7).

The OPB (1976) stated that 'Our evidence is virtually unanimous in pointing to the lower age of pension for women as the most striking difference in the treatment of men and women in occupational schemes' (S7.1, p.42). It has been seen that an employer may legally curtail the working life of female as compared to male employees. This can undoubtedly disadvantage some women, bearing in mind that women tend to earn much less than men, even in professional occupations. If a women has been promoted, she can have five years less in which to enjoy any financial gains.

A woman who is required to retire at 60 is at risk to having fewer years of service to count towards her occupational pension and other retirement benefits and is more 'at risk' to ending up with an incomplete service record than her male counterpart who is not required to retire until the age of 65. The size of the pension and associated benefits can be affected with specific regard to:

1) the calculations of benefits under commutation and allocation options

2) the size of adjustments made on early and late retirement

3) the amount of benefit secured by additional voluntary contributions

4) also, in a few schemes, different pension ages affect the rate of accrual of personal pension

(OPB, 1976, S4.3, p.17)

Occupational pension benefits are usually calculated against a lengthy working life, the retirement pension commonly being based on a fraction of 'final' salary (however calculated) multiplied by the total number of years' service, to a maximum of 40 or 45 years. Many schemes also award a 'lump sum' on retirement, which again commonly relates to length of service. Where an arbitrary retirement rule of 60 is applied to women members of an occupational scheme, this is a form of 'unequal treatment' which can operate to the detriment of women as a class, though the degree of such detriment, if any, will be experienced differentially by individuals. Not only can such women be affected by loss of years of service, but, even if they manage to complete the maximum number of years for their particular occupational pension scheme, there is the possibility that remuneration will improve in real economic terms in the five years after they retire while their male counterparts in the same occupation are working on, thus enabling a higher 'final'

salary figure to be counted in the computations on which pension benefits are based. By the same token, a poor non-inflation-proofed pension will be 'at risk' to loss of value during the first five years of a woman's retirement, when she is, typically, aged between 60-65.

If a woman is compulsorily retired at 60 instead of 65, this may also be to her detriment if she would prefer to work longer so as to make up for earlier breaks in service and achieve a longer period of service in which to make additional voluntary contributions. It will be seen (Ch.7) that women are more subject than men to career breaks, for a variety of 'domestic' reasons which can lie beyond the control of an individual woman. Divorced women are a group who are particularly at risk to detriment from compulsory retirement rules. A divorced woman who gets little or no maintenance from her husband and/or who has lost the right to benefit from his occupational pension scheme, or who simply prefers to be financially independent, can suffer, in occupational pension terms, from compulsory curtailment of her working life.

A factor which compounds the 'curtailment' issue for the present generation of older women workers relates to length of full-time education. In the past, fewer women than men have had an extended post-school education: where this has been the case, it is unlikely that a female member of an occupational pension scheme will have started her career before the age of 21 or 22, so that even if the scheme is one which permitted early entry, such a woman can, if made to retire at the age of 60, be short of the minimum number of years' service required for full benefits perhaps in one of the better paid occupations with good pension provision. Compulsory late entry of women to membership of occupational pension schemes is now illegal, as shown in the preceding

chapter. Thus late entry is no longer permissable, but early exit is, which seems illogical.

In addition, such a woman could well hesitate to take time out to obtain an appropriate qualification by means of full-time study unless the employer guarantees her pension rights. Otherwise, the woman's length of service could be shortened further. It is illegal under the SDA to offer women fewer opportunities for training than men (SDA, 1975, Part II, S6(7)(c), p.4). However, in a situation where neither men nor women are offered pension protection, a woman with a shorter potential length of service due to employer's pension rules, would seem to be disadvantaged. It is true that such a woman might have the opportunity to back-pay her own and her employer's contributions during the time she was on leave from her job. But a man with a longer potential working life (and the prospect of higher earnings) might not need to do this.

If a woman retires with both occupational and state retirement pensions at 60, subject to any of the above detriments, one further financial insult will come her way if she is taxed in her own right. She will get no 'age allowance' from the Inland Revenue until she reaches the age of 65.[39] In addition, there may be detrimental consequences where the occupational pension is subject to a notional deduction to take account of the fact that the recipient is expected to be drawing a state retirement pension. This deduction is applied to the scheme rather than to individual beneficiaries and usually relates to the notional level of single person's retirement pension. Married or formerly married women will not necessarily be so entitled to an individual NI pension: a dependent wife's pension is payable at 60% of that rate, and depends on the presence of a properly insured retired husband (see

Ward, 1981, pp.95-100).

The OPB has noted that, occasionally, higher accrual rates are allowed to make up for the fact that women in occupational pensions stop work earlier than men. Occasionally the converse is the case (OPB, 1976, S7.1, p.42). What seems little in doubt is that women, because of their lower life-time earnings, are less able as a class to purchase life insurance or participate in other forms of saving to compensate for early retirement.

Individual women may well, by virtue of their particular circumstances, count earlier 'normal' retirement age rules as a form of 'positive discrimination' which to some extent compensates for their generally reduced opportunities in employment, as compared with men. Other women may agree with ASTMS, which interprets such earlier retirement as a 'mixed blessing' - 'normally it merely means that a woman has a longer time in which to receive a poorer pension,' (ibid., S6.1, p.33).

The case for a common 'normal retirement age' for men and women in occupational schemes

The case for differential 'normal' retirement ages for men and women in occupational pension schemes rests largely on the differential 'pensionable ages' defined in the statutory pension provisions. The OPB concluded in 1976 that equal status must mean equal pension ages (ibid., S7.35, p.52). This final section examines the assumptions on which rules defining an earlier age of retirement for women are based, and considers the possibility of gender-neutral retirement rules for occupational schemes, with or without differential 'pensionable ages' in the statutory social security system.

The OPB noted certain common justifications for the lower female 'pensionable age' namely:

a) the average age disparity between husbands and wives

b) the fact that women have, in effect, two jobs - running the home and going out to work

c) the reduced working efficiency of women in their sixties

d) women's greater proneness to ill-health (ibid., S7.17, p.47).

In examining these justifications, the Board pointed out that it had been shown by the 1971 census that 30% of wives were in fact older than their husbands (ibid., S7.19, pp.47-48). Since that time re-marriage is also affecting the 'average' age disparity of three years between husbands and wives (OPCS, 1984, Table 3.7, p.30).[40] Nor do arguments based on the assumed age-relationship of married couples apply to those single and divorced women who appear to be represented in the full-time labour force in greater proportion to their total numbers than is the case with married women.

With regard to the argument that women have 'the dual responsibility of running a home and going out to work' and should therefore be allowed to retire five years earlier than men, the OPB agreed that this was mainly the case, but pointed out that the 'same responsibility can and increasingly does fall also on men, for example where a wife is an invalid or a man is a widower with children' (OPB, 1976, S7.20, p.48). The Board in fact remarked that 'normal pension ages, in both state and occupational schemes, reflect to a greater or lesser extent the ages at which society thinks that older people should be enabled to stop working'. (Ibid., S7.3, p.42) It could indeed be argued that the age of 60 is a prescriptive one in that married women are assumed to be younger than their husbands and it is assumed that when these husbands retire, married women should be at home to 'look after' them. This argument is in fact borne out by a recent survey in which 60%

of male respondents stated that women should retire before their husbands 'so that their wives would be at home when they retired' (Richie and Barrowclough, 1983, p.27).

It is possible that the current 'pensionable ages' and associated 'normal retirement ages' serve to reinforce the traditional domestic division of labour. Such practices are questionable when, at a time of high unemployment, a wife may have a financial need to stay in her paid job for as long as she can. Furthermore, unmarried women run their own homes, with or without assistance, with or without responsibility for servicing other members of the household - as do unmarried men. It can be queried whether assumed domestic responsibilities should have any place in defining the 'normal' age of retirement in occupational pension schemes on a basis which can result in the expulsion of women from the work force five years earlier than men, regardless of individual circumstances.

The OPB dismissed arguments that 'the efficiency and enthusiasm' of older women 'tended to wane in their sixties, often due to lack of promotion', on grounds of lack of evidence - nor was the Board convinced by available statistics on ill-health, which did not allow for comparisons to be made between men and women (OPB, 1976, S7.21, pp.48-49). And, having found no good reasons to support the differential 'pensionable ages' which underpin the practice of occupational pension schemes with regard to the setting of 'normal retirement age', the Board examined some alternatives. These included reducing 'pensionable age' to 60 for men, raising it to 65 for women, or finding a 'break-even' point between these two ages, with a fourth possibility lying in the direction of a flexible age-band for retirement for both men and women (ibid., S7.26-7.50, pp.50-57).

Lowering the male age to 60 would increase the cost of occupational pension schemes and raise issues around the fact that a statutory retirement pension for men is not available until 65 - and men are now more restricted in applying for unemployment benefit than they were in 1976. It was queried whether a 'normal' retirement age of 60 for all would permit employers to let men stay on beyond the new normal pension age and it was pointed out that the Inland Revenue would have to change their pension regulations. The additional costs would fall most heavily on the private sector (ibid., S.7.37-7.41, pp.53-54).

The possibility of raising the normal retirement age in occupational pension schemes to 65 for both sexes was felt by the OPB to raise questions as to the rights of existing scheme members who expect to retire at 60 and the problems which transitional arrangements for such a change might create. In both suggestions for a common pension age of 60 or 65, the question of integration or lack of it, with the statutory pension provisions, loom large. An equal pension age somewhere between 60 and 65 appeared achievable without cost only at about age 64 - which would raise much the same issues as age 65 (ibid., S7.42-7,44, pp.54-55).

The OPB felt that 'equal provision for more flexible retirement ages may well be the ultimate solution' though 'not the easy solution it is sometimes claimed to be'. It was pointed out that there 'is already some flexibility in many occupational pension schemes allowing retirement before or after normal pension age'. (Ibid., S7.44, p.55) As an interim measure the Board suggested that in occupational pension schemes with differential retirement ages for men and women, women should not be 'prevented, solely because they have reached that age, from staying at work and earning additional pensions up to men's age (or until the date at which they earn the maximum pension permitted

at pension age, whatever is the earlier).' The Board saw certain disadvantages in requiring that women should not be retired earlier than men - such as inequities 'between women who had earned the maximum pensions at normal pension age and those who had not, and between women who could take advantage of the arrangements, and men who could not'- also 'the greatest inequity - that between women who were members of an occupational pension scheme and those who were not'. A higher 'normal age of retirement' would not prevent women being retired, made redundant or dismissed on grounds unconnected with sex - matters on which the employer should have the final say. There were also issues around the Inland Revenue rules so that their 'limit of two-thirds of final salary would have to apply at whichever was the lower pension age in the scheme', so that men and women could qualify equally for any extra pension available after that age (ibid., S7.46-7,48, pp.55-56). Despite these problems, the Board concluded that 'wherever practicable' women members should not be made to retire before men, solely on grounds of sex' (S7.48, p.56).

During the 1981-82 Parliamentary session, the House of Commons Social Services Committee examined the need for change in the present pensionable age and retirement age system in the light of what was perceived as a growing demand for a lower state male pensionable age (so as to ease the unemployment situation) and a growing movement towards early retirement (H of C, 1982, 26-I, S1, p.vii). It was stated that 'The difference in pension ages between men and women is the biggest anomaly in the present pension system' and that the rectification of this anomaly 'must be one of the prime objectives of any new pension age policy' (ibid., S64, p.xxix). The Committee was not persuaded by arguments for a lower female pensionable age based on recognition of women's greater share of domestic responsibilities or on the typical

age discrepancy between husband and wife. Nor were they convinced that the lower age 'does anything to help make for the disturbingly persistent pattern of lower female earnings' (ibid., S66, pp.xxix-xxx).

The Committee noted that no account had been taken of the recommendations of the OPB (1976) despite the fact that it had insisted that 'equalisation in the state scheme was a necessary precondition of equal status in occupational schemes'(ibid., S67, p.xxx). Nor had the efforts of the EOC, the NAPF and other bodies led to any government commitment to the principle of equalisation of pensionable ages (ibid., S68, p.xxx).[41] After its own deliberations, the Social Services Committee recommended that there should be a flexible pension age 'based on flexibility and on equality between men and women'. (Ibid., S71, p.xxxi) The notional common pension age was recommended as 63 for both men and women, at which age contributors would become eligible, if so entitled, to draw their full statutory pension benefits. Retirement on an abated state pension would be permitted from the age of 60 (ibid., SXIV-XV, pp.lxxxii-lxxxiii). It was felt, on the evidence presented, that such an arrangement would involve no substantial cost to the occupational pensions sector (S96-97, pp.xxxviii-xxxix). The occupational schemes showed interest in the notion of a flexible 'normal retirement age' (ibid., S136, pp.lii-liii). A lengthy time-table was proposed for the changes, to be complete by 1998 when the 'Castle' pension arrangements fully mature (ibid., S142, p.lv).

Evidence presented to the Committee from various interests indicated that equalisation of pensionable age would be welcomed by the providers of occupational pensions. A survey of the British public conducted in 1982 showed that 79% of respondents favoured the same 'pensionable age' for men and women, and that most favoured a lower common age (Richie and Barrowclough, 1982, p.ii) and were prepared to pay higher contributions

to this end (ibid., p.iii).

Many of the issues around a common age of retirement for men and women in occupational pension schemes illustrate the reality that such issues are inextricably bound up with the age of entitlement to state pensions (Pilch and Carroll, 1976; EOC, 1977; DHSS, 1978a; H of C, 2982, 26-I and II). The arguments for a rise in the female age to 65, a reduction in the male age to 60, or a 'break-even' point have been rehearsed in detail which is outside the scope of this study. Meanwhile the European Commission has produced a draft Council Recommendation on the Principles of a Community Policy on Retirement Age (1982) which urges a flexible retirement system on Member States, regarding it as 'likely to solve the problem of equal treatment for men and women as regards the retirement age' (H of C, 1982, 26-II, Annex 3, pp.22-23). However, as the Social Services Committee observed, 'As a recommendation it has no teeth; it should rather be taken as a portent' (ibid., 26-I, S52, p.xxv). Member states have two years in which to examine their own provisions and the possibilities for introducing flexible retirement, after which a further report will be made (Employment Gazette (1982), Vol.90, No.2, p.46).

The differential pensionable age as a barrier to equal treatment of men and women in occupational pension schemes

The differential pensionable age, used to justify differential 'normal retirement ages' in occupational pension schemes is a major and persisting barrier to the achievement of equal treatment of men and women in employers' pension schemes. Where 'normal retirement age' is 60, as is the case in the private pensions sector (other than exceptionally), a woman may be dismissed at or after that age without any recourse to employee protection provisions. At a time of high

unemployment, employers have a legal means of compelling women to retire five years' earlier than men. Yet the majority of working women at present have no entitlement to a state retirement pension in their own right: even single women may have an interrupted contribution record. However, many women employees nonetheless are denied an opportunity to make good any shortfall in their state or occupational retirement entitlements because of retirement rules which rest largely on the unequal pensionable age.(42)

Neither the EC 'Equal Treatment' directive 79/7 nor the Draft Directive on equal treatment in occupational social security schemes tackle the issue of unequal pensionable ages. No progress has so far been made on this issue in Britain, despite the 1982 report of the House of Commons Social Services Committee on the Age of Retirement. The Government replied briefly and without commitment in November 1983 (EOCb, 1984, p.13).(43) The EOC declares itself to be 'still deeply concerned about the volume and variety of complaints received about inequality in treatment - in relation to retirement age, pensions and other issues -' which link to unequal pensionable ages (EOC, 1984a, S6.1, p.25). The Commission is currently supporting a case brought by a woman compelled to retire at 60 where a man would have been allowed to continue to 65 (ibid., S6.3, p.25).(44)

A journalist once commented on a DHSS memorandum entitled 'Pension Age' that

> 'The impression conveyed by the DHSS document is that the computer is programmed for men aged 65 and women aged 60, and that the DHSS is determined to preserve this status quo so that the programme does not have to be changed'.
>
> (Pilch and Carroll, 1976, p.23)(45)

However, since women who do manage to work beyond 60 are currently permitted to revoke their NI pension rights there seems no reason why occupational pension schemes should hide behind the statutory pension system as a continuing excuse for promulgating inequalities. Some schemes do manage to treat full-time women members as 'honorary men', that is, as members with full rights to benefit from an equally long working life. Perhaps no area better illustrates the questionable wisdom of excluding social security matters from the SDA 1975 than this issue of differential ages of retirement.

II Eligibility to confer survivors' benefits

While employers' pension provision was originally designed to provide a replacement income for earnings foregone in retirement, it has since been extended to provide a range of benefits which constitute another major example of permitted sex discrimination in occupational pension schemes. This is differential entitlement by male and female scheme members to confer death-in-service or death-in-retirement benefits, including pensions payable to surviving spouses, children or other nominated beneficiaries (who may be subject to a test of financial dependency or subject to proof of kinship) and/or lump sum payments. These are, in a sense, uncollected retirement benefits and, as will be shown, these benefits can be substantial. Pressure is growing from scheme members and trades unions for such benefits to be made available on an 'equal access' basis to men and women alike,[46] and some private sector schemes have already made this move. However, some commentators urge that before a blanket extension of such benefits is permitted throughout occupational pension schemes, the principles on which survivors' benefits have hitherto been granted should be reviewed in the light

of social and economic change.

Widowers' benefits

It is a requirement that contracted-out occupational pension schemes must provide a guaranteed minimum widow's pension in respect of married male scheme members who die before or after reaching pensionable age (SSPA 1975: S36-39, pp.28-32). No such requirement exists with regard to widowers' pensions. Thus, female members of occupational pension schemes can quite legally find themselves in a position where their male colleagues can, potentially, confer an 'automatic' survivor's pension on their widows, while they themselves, as married women, can confer no such pension on their widowers. However, some schemes do permit the payment of pensions to widowers on proof of financial dependence (usually linked to ill-health). Not surprisingly, at a time when the number of two-earner households has been increasing, along with the risk of unemployment, such differential access to survivors' pensions is being called into question.

A TUC discussion document on equal treatment for men and women in occupational pension schemes identified dependants' benefits as the main area, apart from retirement ages, 'where discrimination between men and women is most visible' (TUC, 1983a, p.8). Differential provision for widows and widowers is cited as a particular example of such discrimination. Widows' pensions have been provided on the assumption of female dependency in marriage (see Ch.8). Widowers' pensions, provided as 'survivors' benefits' for men whose traditional role has been that of 'breadwinner', are a much more recent development. They are discussed in this section as benefits arising from occupational pension scheme membership, with regard to which women members are still, typically,

treated differently from men.

In its discussion of the 'social background to the provision of survivors' benefits' in 1976, the OPB pointed out that differential treatment of male and female scheme members in relation to survivors' benefits reflected the traditional domestic division of labour. Thus, it has been the death of a husband not a wife which has been seen to occasion a need for financial provision for dependants, in both state and occupational pension schemes. However, the Board noted that 'the death of a wife can also cause financial difficulties because child care or household work may have to be paid for, but widowers' pensions have not been provided as it has been assumed that this expense is within the means of the male breadwinner' (OPB, 1976, S10.2, p.101). The Board went on to discuss the growth of two-earner households and the increased participation of married women in state and occupational pension schemes. But it was pointed out that 'the death of a husband still usually leads to a greater reduction in family income, and the incidence of male dependency is therefore less than that of female dependency, except perhaps for older women whose husbands have retired.' (Ibid., S10.3, pp.101-2)

Arguments are made for equal treatment of men and women in terms of survivors' benefits on grounds of equality. Those advocating such equal treatment in evidence to the OPB in some cases linked their arguments to notions of occupational pensions as deferred pay (OPB, 1976, S10.29, p.109). They questioned assumptions of 'automatic' need being applied only to widows. They pointed out that 'widowers' pensions should be paid to compensate for the loss of both the wife's earnings and her unpaid work in the home, and to help widowers with young families to stay at home' (ibid.). Similar 'deferred pay' and 'costs of retirement'

arguments could be made for granting widowers' pensions on death in retirement.

Some organisations were in favour of retaining differential provision. 'The CBI and organisations in the pensions field said that widows' pensions were provided because they met a real need not generally apparent in the case of widowers' (ibid., S10.31, p.109). Widowers' pensions were agreed to be relatively less costly, due to the greater longevity of women, but such pension provision was not a priority for employers with limited resources, though it was acknowledged that there might be 'a need for increased provision for widowers who had been financially dependent upon their wives - for example, due to ill-health' (ibid., p.110).

The NAPF argued that the concept of pensions as deferred pay was 'especially inappropriate to survivors' pensions' (ibid., S10.32, p.110), since 'no employer .... paid a man more because he had no dependents and hence no entitlement to dependents' benefits under the pension scheme'. (Ibid.) The Board itself commented on the existence of witnesses who viewed survivors' benefits not in terms of deferred pay, but in terms of insurance, which justified rules of entitlement being based on need. 'On this view, conditions for survivors' pensions such as tests of financial dependency .... are justified because the contingency insured against - the loss of a spouse's income and consequent hardship - is not present' (ibid., S6.23, p.40). Some witnesses queried the notion of 'automatic' pensions for either widows or widowers, not least in view of the increasing number of women in paid employment (ibid., S10.24, p.108).

The OPB asked the Government Actuary's department to examine the costs of widowers' pensions. It estimated that, should widowers' pensions

be provided unconditionally, the additional cost would be greater than if a dependency test were applied to both widows' and widowers' pensions. It appeared that 'an automatic pension for a widower of half the personal pension would add 5% to the value of a woman's personal pension'. In a scheme 'providing a good level of benefits', it would increase the employer/employee contributions by .6% of salary for new female entrants. For existing female members .7% would be needed (ibid., S10.33, p.110). The difficulties of making an accurate estimation of cost was pointed out, not least because this related to the number of women scheme members (ibid., S10.34, p.110).

The Board concluded that, in consideration of the increase in the number of two-earner households, there was a case for equal treatment of men and women with regard to survivors' benefits. It did however hazard that 'the extension of widowers' pensions could lead some employers and employees to consider whether survivors' pensions should continue to be unconditional', which might be a progressive move (ibid., S10.36, p.111). It was acknowledged that it might be difficult to introduce legislation on such 'equal treatment' when it was not a priority among those administering the schemes in the occupational sector, nor yet a feature of the statutory pension scheme. Cost seemd to 'rule out far-reaching changes in both cases for the present' (ibid.). As with the differential 'pensionable age' as between men and women, the absence of any but limited provision for widowers in the state pension schemes was held to be a bar on extension of such benefits in the occupational pension sector. The conclusion of the Board was that 'as resources permit, whatever provision is made for widows' pensions in occupational

schemes should apply equally to widowers' (ibid.).

The first Consultative Document (DHSS, 1976, S16(i), p.10) recommended that 'equal provision' should be made in respect of widows and widowers, but that the change should be 'effected by voluntary means, as resources permit'. The second Consultative document noted some support for non-discriminatory survivors' benefits in the responses to the first document (DHSS, 1977, p.14) but recommended no action so long as treatment remained unequal in statutory pensions provision.

It was only in the 1970s that Inland Revenue regulations first permitted widowers' pensions to be provided as an occupational benefit without a test of dependency (OPB, 1976, S10-11, p.104)[47] In 1975, widowers' pension benefits as such were uncommon, though 'some schemes, including most of those in the private sector, provide benefits for widowers who were wholly or mainly dependent on their wives under rules which provide for dependents of deceased members generally' (GA, 1978, S12.11, p.67). By 1979, a similar survey estimated that about 30% of private sector scheme members provided widowers' pensions on death in service on the same basis as widows' pensions, though some few schemes operated a test of financial dependency (GA, 1981, S11.7, p.64).

The NAPF found in 1983 that 41% of scheme members were entitled to a pension for an 'independent' widower on death in retirement with 2% entitled on discretionary basis. 61% were entitled to a pension for a 'dependent' widower, and 19% were so entitled on a discretionary basis. Public sector pension schemes provided 76% of the membership with unconditional 'dependent' widowers' benefits, though this was a feature of 'staff' and 'combined' but not 'works' schemes. 37% of the public sector membership had unconditional entitlement to a pension for an 'independent' widower (NAPF, 1983, Table 64, p.41). In the

private sector the comparable figures were 49% and 43%. 25% of the members could get a 'discretionary' widower's pension for a dependent widower (ibid., p.42). The figures for death in service were stated to be similar (ibid., p.41).

A widower may, whether or not a pension is provided, have entitlement to lump sum benefits if his late wife died in service. As discussed in Chapter 8, such lump sums can be large. Payment of the lump sum on death in service is either to the deceased member's estate or elsewhere by discretion of the scheme administrators or trustees. Where payable by such discretion, the lump sum is freed of liability for capital transfer tax. It is possible for a scheme member to nominate a person or persons to whom he or she wishes the lump sum to be paid, though the trustees are not under a legal obligation to honour the members' wishes (TUC, 1981, pp.58-59). Schemes commonly require such a lump sum to be paid to the widow or widower if there is one.

Widows' pension provision is predicated on the notion of the male wage as a 'family wage' and the financial dependence of women in marriage. It is still the case that a married man is legally required to 'maintain' his wife. There is no obligation upon a married woman to contribute financially to the expenses of household expenses, though, as documented in Chapter 7, the increased economic activity of married women over the last two decades means that many women do make a financial contribution to the home. Some married women are, by choice or necessity, main or sole bread-winners. Nonetheless, the income generated by wives is, typically, less than that generated by husbands and reflects the domestic division of labour which designates married men primarily as paid workers and married women primarily as unpaid workers in the

home.

However, increasingly, married couples do not conform to the stereotype. Childless wives have economic activity rates analogous to those of single women and mothers tend to withdraw completely from the labour force only when their children are of pre-school age. Those women who work full-time are most likely to have access to membership of an occupational pensions scheme, and the higher their earnings the greater their access to scheme membership. The higher their earnings, the greater is the inequity between those married women whose scheme membership does not confer a widower's pension on a surviving spouse and those married men in respect of whom an automatic widow's pension is inevitably payable.

Widowers' pensions feature modestly in statutory pension arrangements, there being a provision for men over 65 to inherit their late wife's pension record if she died when herself over the age of 60, and if her record was better than that of her husband. No widower may exceed the level of pension permitted to a single person (SSPA 1975, S8-9, pp.5-6). In evidence to the OPB the DHSS explained that this arrangement was intended to cater for husbands who 'because of old age or ill health' had been dependent on their wife's income (OPB, 1976, S10.17, p.106).

This differential treatment of married men and women scheme members with regard to benefits for widows and widowers is an example of permitted sex discrimination in occupational pension schemes. Its continuance is justified on grounds of tradition, the assumed financial dependence of wives on husbands, wives' typically lower earnings and the cost of extending automatic benefits to widowers. It is a subject on which

the EOC receives a continuing correspondence from aggrieved married women - not least those in schemes where men and women make equal contributions and still receive unequal benefits.[48] If the principle of equal treatment of men and women in occupational pension schemes is accepted, then the practice of not granting automatic pensions to widowers, so long as they are granted to widows, cannot be defended.

As argued above, the financial viability of many households has increasingly come to depend upon the earning of both husband and wife, though the wife is commonly the lesser earner. Some households have the wife as 'main' breadwinner, such role reversal taking place from choice or necessity, the latter increasingly arising from male unemployment as well as from ill-health or other incapacity on the part of the husband. In the future, more retired married-couple households will derive an income from both husband and wife's pension benefits. There is a sense in which those couples where the wife has gained maximum benefit from SERPS will, in some cases, be advantaged over and above those deriving pensions from occupational schemes, where the wife dies and her widower is able to inherit her SERPS record. It is thus not surprising that provision of widowers' pensions on a par with provision of widows' pensions is being seen as a necessary corollary of the increasing participation of married women both in the labour force and in occupational pension schemes.

The tests of dependency[49] which are required in some schemes before a widower's pension may be granted are a source of discontent. There is a sense in which the married couple are required to legally justify their 'deviant' financial circumstances. In 1982, women doctors in the NHS pension scheme began to campaign for unconditional widowers'

pensions, claiming that obtaining such a pension on grounds of 'dependency' could be a 'humiliating and difficult experience' (Pensions Today, Vol.5, No.3, 1982, p.4). Proven ill-health is the one traditional ground on which a married woman scheme member may justify her role of 'provider' to a dependent husband. However, it is growing unemployment which is providing a spur to demands for an extension to the grounds covered by dependency as well as for abolition of the dependency test itself.

A woman Civil Servant has to satisfy her employer that her husband is 'wholly or mainly' dependent upon her before being allowed to pay 1½% of salary towards a widower's pension. A woman in the health service or local government 'can nominate her husband as a dependent to receive a pension on her death provided that her husband is permanently incapable of earning his own living because of ill-health or infirmity: and is at the time of the nomination wholly or mainly dependent on her.' A teacher can nominate her husband for a dependant's pension under the guise of a 'financially dependent close relative' (TUC, 1982, pp.4-5).

It is currently being argued that a husband's unemployment should also be a recognised ground for claiming dependency. However, there being somewhat less proof available of permanent financial incapacity than is the case in ill-health, this is problematic ground.(50) Nonetheless, where a husband has been made redundant with little hope of obtaining fresh employment, it might appear a convincing proof of 'dependency'. There is also an issue around allocating husbands a 'dependent' status in situations where a couple have made a choice that it is the wife who will engage in paid employment and not the husband. For it may be argued that the current arrangements for survivors' benefits prevent

married couples from making a true choice as to their relative participation in economic activity. They are locked into the traditional domestic division of labour, since their income in old age (or their financial circumstances if one partner dies in service) will be enhanced where it is the husband who is a member of an occupational pension scheme.

The recent change in Supplementary Benefits regulations whereby a wife may be nominated as 'main breadwinner' (see Luckhaus, 1983) could serve as a model for further recognition of female bread-winners in occupational pensions scheme membership. It can perhaps also be kept in mind that there are circumstances after divorce where a wife may, very unusually, be expected to maintain her ex-husband (Cretney, 1979, p.275). In addition, the Supplementary Benefits system will not give benefit to a husband whose wife has any but miniscule earnings (Allbeson and Douglas, 1984, p.49). Thus, there is within both family and public law a recognition of the role of the wife as wage-earner. Such recognition must surely add to the arguments for equal treatment of men and women with regard to occupational survivors' benefits.

However, the same arguments which are made against the provision of 'unconditional' widowers' pensions on the grounds that most husbands generate an 'independent' income via earnings which carry an eventual entitlement to a retirement pension, can be used to contest the principle of 'unconditional' pension payments to widows, some of whom will have substantial incomes and pension rights themselves. If survivors' pensions are held to be provided on an 'insurance' basis against the need of dependent persons, then it can be argued that widows as well as widowers should be subject to a test of dependency. If, however, survivors'

pensions are viewed as 'deferred earnings' to which a widow or widower should have entitlement, then a case can be made for 'universal' pensions, bearing in mind that when a husband or wife dies intestate, the law awards the surviving spouse a major part of the estate if there are other close relatives and the whole if there are not (Cretney, 1979, pp.259-260). It is also possible for a widow or widower to apply for provision to be made under the Inheritance (Provision for Family and Dependents) Act 1975, in which case the issue is whether 'such financial provision has been made as it would be reasonable in all the circumstances of the case for a husband or wife to receive, whether or not that provision is required for his or her maintenance' (Cretney, 1979, p.265).

It could be argued that occupational pension provision for widows at the present time is paid to such women as wives whose marriages have ended by death, rather than as dependants, and that by analogy and with a view to equity, occupational pension provision should be available on exactly the same terms to widowers as husbands whose marriages have terminated on death. Given that widowerhood is a far less common event then widowhood (Haskey, 1982), the cost would be modest, especially for those schemes where the proportion of women in membership is low. Meanwhile the EEC Draft Directive on equal treatment in occupational social security schemes covers pensions awarded to surviving spouses but states that, as in the case of 'pensionable age' Member States should have the right to defer implementation of this provision pending implementation of corresponding provision in their statutory social security schemes (Commission of the European Communities, 1983, Article

9). Thus, there seems no likelihood of swift governmental action on this issue.

Other survivors' benefits

Differential entitlement to occupational 'death benefits' for children is an issue which was well publicised in 1983. This was due to a particularly dramatic illustration of the manner in which occupational pension schemes are permitted to treat male and female parents unequally in this respect, with the possibility of a particularly unhappy outcome in the case of a female-headed single-parent family.

A 'single-parent' nurse at a boarding school died of cancer aged 41 leaving four dependent children, whereupon her executors discovered that whereas both men and women scheme members were required to pay employee contributions at 5% of salary, a lump sum of two and a half times earnings was payable on behalf of a man who died in service. For a woman, a mere return of contributions plus 3% interest was payable, in this case £434 (Pensions, May 1984, p.19). An executor's claim, backed by the EOC, was ruled 'out of time' by an industrial tribunal. The trustees made an 'ex-gratia' payment of £7,500 to the children, still far less than the entitlement for a deceased male scheme member (Finlay, 1984, p.11).

The OPB noted in 1976 that children's pensions were a relatively unusual provision and one where entitlement was less usually made available to women than to men and one in which indirect discrimination against female parents operated (OPB, 1976, S10.45, p.114). It is still the case that schemes such as the Civil Service Pension Scheme require that children's pensions are given as a death benefit only where the

child has been 'wholly or mainly maintained by the deceased member' (H.M. Treasury, 1982, S4.24-4.34, pp.51-55). This type of arrangement is open to arguments that where a father is present in the family and, especially if he earns more than the mother, that he is the parent who is maintaining the children. The OPB (1976, S10.45, p.114) also reported female entitlements as sometimes subject to trustee discretion where male entitlements were not. There were instances where such benefits were payable to the children of a deceased scheme member who had been a divorcé or widower,but not to the surviving children or a divorcee or widow.

In 1975, pensions for the 'dependent' children of a deceased scheme member were near-universal in the public sector, though less commonly provided by private schemes, especially in respect of 'manual' members (GA, 1978, S12.10, p.66). Such provision is usually related to salary and service and to the payment, or otherwise, of a widow's pension (ibid., pp.66-67). By 1979, 37% of the private sector membership did not qualify for children's benefits, 18% got them independently of a widow's pension, 32% got them at a higher rate if there was no widow's pension and 13% got them only if there was no widow's pension (GA 1981, S11.8, pp.64-65). In the public sector the majority (84%) got children's pensions at a higher rate if no widow's pension was payable. In some cases children's pensions could be payable under a provision for dependants' pensions (ibid., p.64). The 1983 NAPF survey showed that half of all pension schemes paid 'automatic' children's benefits in addition to other dependants' benefits: only 25% paid no benefit at all. It was the larger schemes which were more likely to provide such benefits (NAPF (A), 1983, S6.4, p.32).

Occupational schemes in some cases offer provision on death in service or retirement for the dependants of scheme members, as discussed in Chapter 8. Such provision may well be contingent on the operation of trustees' discretion. The OPB noted that such provision could commonly be made by allocation or cash commutation or by nominating a recipient for a death benefit where the scheme trustees had discretion as to its destination (OPB, 1976, S10.48, p.115).[51] It recommended that 'wherever practicable' schemes should enable members to provide for those who are dependent on them, in the event of death, noting that it is often single women who have elderly or sick dependants (ibid., S10.51, p.116). A small number of schemes were identified in 1979 as making a difference in lump sum provision on death in respect of married men and single women without dependants. However, these inequities appeared to encompass both greater generosity towards women and penalisation (GA, 1981, S11.3, p.61).

In conclusion: survivors' benefits are an area of occupational pension provision in which there are substantial inequities as between the treatment of men and women. Widowers' pensions are a particular case in point. However, while a good case can be made, in equity, for the extension of widowers' benefits, some commentators urge that a re-examination of the principles on which survivors' benefits are granted should precede any blanket extension of such benefits in occupational schemes. Ellis and Morrell (1982, p.27) point out that while 'at first sight' it may seem equitable to extend entitlement to women for all dependants' benefits currently available to men, this could well involve an inefficient use of resources. Whereas some widows are not financially dependent on their late husbands, even less so are widowers. A better

solution might be to make available 'a range of options which would enable them to meet whatever provision for survivors best suited their individual and family needs' (ibid., p.28; Darley-Jones, 1984, p.33). Such a solution would allow women to provide for a range of dependencies, including those categories less likely to be favoured by trustees.(52)

This scenario might well be a viable alternative had men and women roughly equal opportunities to generate such occupational assets for disposal. However, as illustrated in the next chapter, women have unequal opportunities to generate occupational benefits via paid employment. Should the form of provision for partners and dependants become a matter for personal choice, then there is a risk that those with the lesser economic power (typically, women and children) would be vulnerable to the exercise of irresponsible or ill-informed choices, by male 'providers' in particular. The history of occupational widows' pensions is illuminating in this context (see Chapter 8).

In that most marital households now consist of two earners, apart from the period when children are young, it can be argued that both partners should be equally entitled to the 'protection' of universal survivors' pension provision to replace part of a 'family wage' lost on death, by the transfer of the deceased spouse's deferred earnings to the survivor. This does, it is true, advantage the married over the single. However, the unequal treatment of women with regard to widowers' benefits is a particularly glaring example of sex discrimination in occupational pension schemes, as is differential provision for the surviving children of female as opposed to male deceased scheme members. In respect of unmarried men and women, it can be argued that both sexes should have equal opportunities to confer benefits on adult survivors, with or without a test of dependency. For while 'disaggregation' might

be the most equitable system of all, allowing male and female members complete control over the disposal of their 'deferred earnings' after death, it is not perhaps a realistic solution in the light of women's restricted access to occupational pension benefits and their position in the labour market.

Chapter 7

Occupational Pension Entitlement and Women's Paid Employment

This chapter focuses on women's paid employment, emphasising aspects of female economic activity which help to explain the continuing under-representation of women in membership of occupational pension schemes and the typically lower benefits which accrue to female scheme members.

Occupational pension schemes advantage those who achieve a lengthy, continuous record of full-time employment, as exemplified by a 'reckonable' period of 40 years long-term permanent service. Retirement benefits are usually calculated on a 'final salary' basis, with a fraction of this salary being multiplied by the total of completed years of service. Those most likely to gain substantial occupational retirement pension scheme benefits are persons with good earnings from employment which actually provides an employer's pension scheme as a 'fringe benefit'. Employees are, typically, further advantaged if they have remained with one employer or have derived 'transferable' pension rights from their occupational pension schemes.

It will be argued that the under-representation of women in scheme membership and the typically more limited benefits which they receive can partly be explained by the fact that the characteristics associated with maximisation of opportunities to benefit from employer's pension scheme membership have, to date, been more commonly possessed by male than by female employees. Women tend, especially if mothers, to have interrupted working lives, and low earnings, the latter often associated with part-time employment. In addition, women tend to be largely concentrated in certain types of occupation and are greatly over-

represented in the lower grades of employment within those occupations. Thus, women who do acquire entitlement to occupational pension benefits typically retire with, in comparison to men, lower weekly rates of pension, smaller lump sums and more restricted opportunities to confer survivors' benefits.

Discussion of women's paid employment in the context of access to occupational pension entitlement can usefully be allied with discussion of the traditional domestic division of labour (see Ch.4, section 1). Women's access to paid employment, their economic activity rates and location within the occupational structure have been much influenced by beliefs and practices which assign the major responsibility for unpaid domestic work to women. As Wainright (1978, p.168) comments, 'Domesticity appears as an inherent part of being a woman'. In the period 1870-1983, married women have been designated as the financial dependants of their husbands and the assumed beneficiaries of a 'family wage' paid to their husbands. It is the risk of cessation of this 'family wage' which has led to the establishment of survivors' benefits for widows and children within both state and occupational pension provision (see Ch.8).

Ch 4 (I) discussed the position of female employees after World War II and gave an overview of increasing female economic activity rates from that time. Reference was made to the 'bi-modal' career which typifies the employment history of the majority of women. This chapter will comment further on economic activity rates, including those of part-time female workers. The position of women in the labour market will be examined with particular reference to occupational segregation, pay and the risk of unemployment. Finally women's paid

employment will be discussed in relation to women's traditional and on-going responsibility for the unpaid domestic labour of the home. While the detail of this discussion will necessarily be brief, the chapter aims to pinpoint some particular issues which appear significant in the context of female access to occupational pension provision and the continuing under-representation of women in occupational pension scheme membership.

I Female economic activity rates

In order to maximise opportunity to accrue occupational pension benefits employees need to be 'economically active'[53] and in full-time paid employment for a high proportion of their working life.[54] Late entry to the labour market may however enhance the opportunity to obtain good occupational retirement benefits, despite a consequent reduction in the number of years potentially available for employment, where extended education and training leads to well-paid job opportunities with access to 'fringe benefits'.

A D. of E. survey has for the first time provided information on the 'complete retrospective working histories' of successive cohorts of women in Great Britain who were aged between 16-59 in 1980. While women do, characteristically, have shorter 'working lives' than men, younger female cohorts are leaving the labour force for shorter lengths of time, though very young women, in particular, are at high risk to unemployment. It was estimated that at 1980 employment rates, the 20-24 cohort would have spent 67% of their 'working lives' in employment by the age of 60 as compared with 59% for the 50-59 cohorts (Martin and Roberts, 1984, Table 9.5, p.122). Childless women, regardless of marital status, had much higher economic activity rates than mothers

(ibid., Table 9.7, p.123). It is not marriage as such, but child care and, to a lesser extent, the care of dependants (ibid., pp.112-114) which is associated with withdrawal from the labour force.

Joshi and Owen (1981) studied the employment rates of successive cohorts of women in Britain from 1950-1974,[55] finding that motherhood, not marriage, was the key factor in determining the length of a woman's working life. The 'average lifetime effect' of a woman's having 'an average sized family' was withdrawal from the labour market for a total of seven years (Joshi and Owen, 1981, pp.106-107). Again, the trend was for younger cohorts to have higher economic activity rates (ibid., pp.107-108). Parker (1980, Ch.3) and Martin and Roberts (1984, pp.11-12) have documented the sharp decline in female economic activity which takes place from the mid-fifties, further shortening the working lives of the current generation of older women.

Table 20

Current economic activity by age: all women except full-time students[56] G B.

	Age		Britain: 1980		
	16-19	20-24	25-29	30-34	35-39
	%	%	%	%	%
Full-time	73	56	31	23	30
Part-time	1	9	18	33	37
Total working	74	65	49	56	67
'Unemployed'	14	7	5	5	4
Economically active	88	72	54	61	71
Economically inactive	12	28	46	39	29

	40-44	45-49	50-54	55-59	All
	%	%	%	%	%
Full-time	33	35	33	25	35
Part-time	41	38	34	28	28
Total working	74	73	67	53	63
'Unemployed'	4	5	6	5	6
Economically active	78	78	73	58	69
Economically inactive	22	22	27	42	31

Source: Martin and Roberts, (1984), Table 2.3, p.11.

Since World War II, women have been spending increasing proportions of their adult lives in paid work, though, as noted in Ch.4(I), female economic activity rates have been much lower than male rates and display considerable variation as between age groups. Nonetheless, succeeding cohorts of women have shown an increasing propensity to be economically active, especially during their 30s and 40s. However, this increase in paid employment has been largely accounted for by an increase in part-time working (Martin and Roberts, 1984, p.136) - a major feature of women's employment since World War II.

Manley and Sawbridge (1980, p.31) have estimated that in Britain 'the proportion of the female work force engaged in part-time work rose from 20-25% in 1960, to 30% in 1970 and 41% by 1976'. Joshi and Owen (1981, p.13) present evidence that whereas in 1961 'about half of the working women with dependent children were part-timers by the 1970s, this proportion was about two-thirds.' (See Table 20, above) Martin and Roberts (1984, p.17) in 1980 found that 44% of all working women were part-timers, 28% working more than 16 hours per week and 16% less. Part-time working was strongly associated with motherhood - only 7% of childless women worked part-time (ibid.).

In a comprehensive analysis of part-time working, Robertson and Briggs (1979) showed that during the period 1971-76, part-time work became increasingly available (ibid., Table 4, p.673). During that period, married women part-timers outnumbered men by about 5-1: the number of women rose by 30% as compared with 17% for men (ibid.)[57] The EC Labour Force Survey 1979 is interesting in this context since respondents were asked for a subjective judgement as to whether they were 'part-time' workers. Of the whole population of 'economically active' persons in Great Britain, 1.6% of men, 12.8% of non-married

women and 48.1% of married women were recorded as part-timers (OPCS, 1982, Table 4.7, p.15). The GHS 1982 (OPCS, 1984a, Tables 6.9-6.10, p.108) further confirms the association between marriage, motherhood and part-time working. As noted in Ch.4, part-time workers are usually excluded from access to membership of occupational pension schemes.

Martin and Roberts (1984, pp.137-138), studying the lifetime histories of women 16-59 in 1980, found that 'childless women spent the major part of their lives since leaving school in paid employment' - an average of 87%. Since the mid-fifties, women have, typically, worked full-time until the birth of their first child. The birth of the first child usually signalled a period of absence from the labour market lasting several years, though younger women were increasingly returning to work within six months of the birth. This trend was associated with having higher qualifications, i.e. A-levels or above. 22% of teachers so returned, 26% of other intermediate non-manuals but only 10% of clerical and sales workers (ibid., Table 9.12, p.126).

The increasing number of women returning to paid work while their children were very young was 'almost entirely attributable to increasing proportions of women returning initially to part-time work.' (Ibid., p.137) Among women with grown up children, 90% had returned to work at some time and the trend was upwards. However, there was evidence that part-time work was not only done by mothers of younger children: some older women worked part-time in the years immediately before retirement.

Martin and Roberts found that part-time working was strongly associated with not being in membership of an occupational pension scheme (ibid., pp.48-49). As will be discussed later, both women's

typically shorter working lives (as compared with men's) and their propensity to work part-time are major factors in explaining the under-representation of women in occupational pension scheme membership and their typically less valuable pension entitlements.

II Women in the labour market

This section focusses on women in the labour market, concentrating first on their location within the occupational structure, then on their pay and finally on their vulnerability to unemployment. These are crucial factors in that the employees most likely to benefit from membership of an occupational pension scheme are those with continuous full-time employment in salaried or white collar employment.

Despite increasing numbers of women entering the labour force in the 20th century, their location within the occupational structure up to the present time has been characterised by two discrete types of occupational segregation. Horizontal segregation occurs 'when men and women are most commonly working within different types of occupation' (Hakim, 1978, p.1264) and vertical segregation 'exists when men are most commonly working within higher grade occupations and women are most commonly working in lower grade occupations, or vice versa. The two are logically separate.' (Ibid.)

Hakim, in her study of decennial population censuses 1901-1971, found that in the case of horizontal segregation 'there has been no decline, rather a small increase, in the occupational concentration of women over the century' (ibid., p.1265). In about 25% of the occupational categories 'women were at least as well represented as in the labour force as a whole' but even by 1971, in 12% of those occupations, women were 'greatly over-represented' at 70% or more of the work force

(ibid.). 'Typically male' occupations remained at 75% of all occupations. However, more men appeared to have made inroads into traditionally female occupations than women into traditionally male occupations (ibid., pp.1265-1266).

On examination of the 1971 Census results, Hakim found that almost 2 million women were horizontally segregated into occupations where 90% of all employees were female, i.e. typists, secretaries, maids, nurses, canteen assistants and sewing machinists. Other 'personal service' jobs, especially in the catering trades, were identified as being largely female (ibid., p.1268). Furthermore, with regard to vertical segregation, Hakim found that 'within each occupational group, women tend to be over-represented among the less skilled or managerial jobs' (ibid.). Hakim concluded that despite greater occupational concentration by women, there had been a slight decline in horizontal occupational segregation between 1900-1971, but that this was cancelled out by the increase in vertical segregation (Hakim, 1979, p.34). There had in fact, overall, been little change.

Hakim followed up her earlier study by examining trends in the 1970s, the decade during which equal pay and sex discrimination legislation became operative from 1975. Her results suggested that 'legislation had a marked impact in supporting and stimulating the long-term decline in job-segregation observed over the previous seventy years.' However, after 1977, the trend was reversed (Hakim, 1981, p.525). Thus, with 62% of women economically active by 1979 (ibid., p.523) there was little change in horizontal segregation, though in terms of vertical segregation, women did appear to have made substantial gains in their share of 'higher grade' white-collar work in the 1970s (ibid., p.525) and, notably, their representation increased in 'higher professional'

work (ibid.). Between 1973-79, the proportion of women in management-related professions rose from 14%-21%, and for science-related professions from 5%-9%. Interestingly, in professions related to education, welfare and health, where women have been traditionally over-represented, there was no change.

Martin and Roberts (1984, p.31) found that 'occupational segregation between men and women exists to a marked degree both in terms of the jobs they do and their views about what is men's and women's work and why this is so.' 58% of full-time and 70% of part-time women were in sex-segregated jobs (ibid., pp.26-27). Occupational segregation of the vertical type 'was lowest among the high-level occupations, which fall in Social Classes I and II' and 'highest --- in the semi-skilled domestic category where 78% of women doing mainly catering or child care jobs worked only with women' (ibid., p.27). However, 24% of teachers and 42% of full-time nursing, medical and social workers reported themselves as in 'women only' situations: for full-time clerical workers the figure was 64% (ibid.).

In a table relating occupational group to social class, Martin and Roberts (Table 3.2, p.23) show the location of women in the occupational structure.

Table 21

Occupational group and social class of full and part-time working women: GB.

Occupational group	Social class	Full-time %		Part-time %		All %	
Professional	I	1		1		1	
Teaching	II	8		3		6	
Nursing, medical, social	II	7	24	6	12	7	19
Other intermediate non-manual	II	9		3		6	
Clerical	III non-manual	39		20		30	
Sales	III non-manual	6	45	12	32	9	39
Skilled manual	III manual	8		6		7	
Semi-skilled factory	IV	13		7		10	
Semi-skilled domestic	IV	4	20	20	32	11	25
Other semiskilled	IV	3		5		4	
Unskilled	V	2		17		9	

Source: Martin and Roberts, (1984), Table 3.2, p.23.

Using evidence from the GHS 1980, Martin and Roberts (Table 13.1, p.23) analysed the occupational order for the jobs of full and part-time working women, and working men. This gave further evidence of horizontal occupational segregation in that 41% of full-time women (22% part-time) were in clerical work as compared with 6% of working men. 16% of full-time (10% of part-time) women were professionals in health, education and welfare (5% men). 10% of full-time (41% of part-time) were in catering, cleaning and hairdressing (3% of men). By contrast, whereas 19% of men were in managerial occupations or

were professionals supporting management, 7% of full-time and 1% of part-time women were so occupied. Other large male occupational categories - 'metal processing, making and repairing' (20%) and transport (11%) had a very small number of females in those categories.

Martin and Roberts (ibid., p.32) concluded that 'The industrial and occupational distribution of working women --- showed that women are concentrated predominantly in a few occupations mostly in the service sector. This distribution has remained relatively stable over the past 15 years.' The part-timers were 'more likely to be in the service sector and in low level jobs'.

Central to the position of women in an occupationally segregated work force is women's education and training. Despite the post-war trend towards co-education in the state school system and the 1975 sex discrimination legislation, evidence has accumulated which indicates that within these schools, girls tend to follow a differentiated curriculum and are at risk to receiving a very different and more restricted educational experience, as compared with their male peers (Deem, 1978; Sarah and Spender, 1981; Deem, 1981; EOC, 1984). The same risk occurs in higher education (Rendel, 1980). Girls who are now young adults appear to have received limited advice on careers while at school (Rauta and Hunt, 1975; Mackie and Patullo, 1977, Ch.2, pp.26-38). Certainly the fifth form girls studied in England and Wales in 1973 while having 'distinctly positive attitudes towards work' (Rauta and Hunt, 1975, p.52) were entering or intending to enter to a narrow range of jobs (ibid.,pp.49-52). Girls still obtain far less in the way of qualifications and training during and after the school years (EOC, 1984a, Appendix 9, Part 2, pp.65-74).

In 1965, over 90% of women over 50 had passed no examinations whatsoever while at school: even for the 20-24 age group, the figure was over 70% (Hunt, 1968, Table H2a, p.215). Younger women were better qualified, but only 2% of the 25-29 age group had a degree/higher national diploma or certificate, while 3.2% had a teacher's certificate and 4.8% some sort of nursing qualification (ibid., Table H7a, p.222). This group must now largely form the middle-aged component of the female population in GB and they in their turn are less well-qualified than their juniors. In 1979, 74% of women (GB) between 50-59 were recorded as having no qualifications. Only 6.7% of this group had any kind of higher education qualification of which 1.5% had a degree and 5.2% some other type of sub-degree qualification. Only 1.9% had completed an apprenticeship. Corresponding figures for men reveal 56.5% with no qualification, 6.9% with a degree, 2.8% with other higher education and 18.2% who had undertaken an apprenticeship. By contrast in the 25-29 age group 41.6% of women (30.7% men) had no qualifications, 6% (11.5%) had a degree or equivalent, 9.1% (5.3%) had some other professional or vocational qualification and 2.4% of women (22% men) had undertaken an apprenticeship (OPCS, 1982, Tables 6.1, 6.2, pp.44-45).

Women with post-school qualifications have tended to obtain them within certain restricted fields. The existence of discretionary post-school financial awards in the years prior to the SDA 1975 permitted local authorities to ration awards to females so as, for instance, to direct girls towards teacher training courses (Byrne, 1974, p.295). Certain medical schools could and did put a lower quota on the number of female medical students whom they were prepared to accept (Rendel, 1980, p.89).

Until recently women were considerably under-represented on degree courses and still are over-represented on arts and certain social sciences courses. Within higher education women are still heavily outnumbered by men in engineering, technology and sciences, and in some areas of professional training and social sciences (EOC, 1984a, Tables 2.3 and 2.6, pp.69 and 73). This 'educational segregation' is preceded by sex-specific 'choice' of subjects at 'O' and 'A' level. Although equal numbers of 'O' level passes have recently been obtained by boys and girls, in 1981 girls were still heavily under-represented in physics and computer studies, and to some extent in mathematics (ibid., Table 2.1b, p.66). Fewer 'A' level passes were obtained by girls (46%) than by boys, and the differentials in subject choice which were evident at 'O' level, repeated themselves in exaggerated form (ibid., Table 2.1c, p.66). 99.6% of 'A' level 'domestic subjects' passes were obtained by girls and 98.4% of all 'technical drawing' passes by boys.

Education plays a large part in determining access to occupations. With growing unemployment, 'credentialism' is playing a much greater part in determining such access. Employee selection from a large pool of applicants is made an easier administrative task by insistence on possession of paper qualifications not necessarily relevant to the job.(58) Meanwhile, occupational segregation rests on more than gender-differences in qualifications and training: '--- stereotypic beliefs about men and women, and the work suitable for them, still effectively prevent the entry of women into certain occupations and retard their promotion and advancement in many others' (Archer and Lloyd, 1982, p.191). The link between education and horizontal segregation between occupations is fairly self-evident: if so few girls, for whatever

reason, complete apprenticeships and 80% of girls train as hairdressers and manicurists (Mackie and Patullo, 1977, p.60), few women will enter the technical occupations for which boys have traditionally completed apprenticeships. With the decline of apprenticeships and the appearance of the Youth Training Scheme, it appears that segregation by sex in training is a continuing feature of post-school training experience (EOC, 1984a, p.69).

Vertical occupational segregation, whereby women congregate in the lower grades of such occupations as they do enter, is perhaps a more complicated phenomenon than horizontal segregation. Undoubtedly many women are in less skilled or responsible occupations, or in the lower levels of heirarchical job structures, because of poor qualifications or qualifications which, though good, are poorer than those of comparable men. This factor is itself related to the 'bi-modal' career followed by the majority of women (Hakim, 1979, pp.4-17). Many women leave full-time work in their twenties and return a few years later, as previously shown. Mackie and Patullo (1977, p.43) see the propensity of married women to return to part-time work as a 'pernicious barrier to women's equality with men' since it 'acts as a further brake on women being trained or promoted.'

Greenhalgh and Stewart (1982, p.329) note from research using the National Training Survey 1975 (which recorded the retrospective work histories of over 50,000 men and women in the UK), that discontinuities in female labour force attachment 'have an important impact on the economic success of women, since skills are obtained to a considerable extent through labour market experience and may be blunted in periods of absence from the labour force.' They also observe that absence from the internal labour market which operates inside larger places

of employment can depress women's chances of getting the better jobs on re-entry to the labour market after an absence (ibid.). Greenhalgh and Stewart (p.333) argue that the interruptions to economic activity which characterise female employment 'careers' are, typically, few, and small in comparison with the whole of a woman's working life. 'Nevertheless, such interruptions do exert an important downward force on later economic position.' (Ibid.)

Martin and Roberts studied job changes and occupational mobility, noting that changes between full and part-time work could involve 'a complete change of occupation' (1984, p.151). 'Among childless women 60% were in the same occupational category in their most recent job as in their first job' (ibid., pp.151-152). Older childless women were likely to have been upwardly mobile. However, for women returning to work after childbirth, 37% moved downwards and only 14% returned to a higher level. 'Downward mobility was strongly associated with returning to part-time work: 45% of those who returned to part-time work returned to a lower level occupation compared with 19% who returned full-time' (ibid., p.152). The women who were most likely to have moved 'up the occupational scale' were those who returned initially to part-time work and moved on to full-time work (ibid., p.152).

Most part-time work is low-level work and is characterised by low pay and poor working conditions (Hurstfield, 1980, pp.1, 5-10; Glucklich and Snell, 1982, pp.20-22). Part-time work is mainly unskilled manual work (including 'service' work) of a type graphically illustrated in a study of women's employment in North Shields (North Tyneside CDP, 1978) or white-collar clerical and office work, which type of work is also done by women on a 'temporary' basis (McNally, 1979). Manley and Sawbridge (1980, p.31) have documented the growth of part-

time low-level 'female' jobs, including service work performed within the public sector. However, part-time work is much less available (though prized by married women with younger children) in professional occupations (Silverstone and Ward, 1980). An exception has, until recently, been teaching, though opportunities in part-time teaching diminished sharply during the 1970s (Trown and Needham, 1980).(59) Where women return to full-time work after a break, their male contemporaries typically have more work experience, more training and more seniority. Thus, women who originally worked in skilled occupations, including those requiring a high level of educational qualifications, may find it difficult to re-establish themselves after a break, especially where there is an over-supply of labour. With part-time work, even in the traditional occupation of teaching, being scarce, women have to take what paid work they can. In 1974, the Department of Employment commented on part-time work as mostly 'low-level work, ill-paid and of low status, with no prospects of advancement' (Mackie and Patullo, 1977, p.43). There is no evidence to suggest that this judgement is out-dated.

Archer and Lloyd cite evidence on the tendency of women to have lower expectations about their performance. Unlike men they view failure as a consequence of their own lack of ability rather than in terms of the inherent difficulty of the task (Archer and Lloyd, 1982, p.193). However, 'women's lower expectations have been explained as a further consequence of the gender stereotype of lower competence' (ibid.). Cooper and Davidson (1982), studying the working lives of women managers, produced evidence to support the preceding statement, notably in their analysis of a study of management attitudes and practices towards women at work (Hunt, 1975). '47% of the companies surveyed

never employed women as managers and 63% never employed women as skilled workers' (Cooper and Davidson, 1982, p.115). Not surprisingly, in view of the fact that 'more than 40% thought that a woman's place was in the home and 50% felt that it was not worth training women for work' (ibid.) top management and personnel managers in these companies felt that men were much more likely than women to have the attributes required 'for success in management and other related jobs' (ibid., p.116). Fogarty, Allen and Walters in their study of Women in 'Top Jobs' (1981) note that increasing numbers of young women are now on the bottom rungs of careers which could lead to management positions and the lack, in many situations, of adequate machinery and procedures for career planning (ibid., pp.28-29). They relate what is, effectively, vertical segregation, to a need for employers to respond to women's domestic responsibilities (ibid., p.28).

The situation of women in professional, managerial and public sector employment is interesting in the light of their generally more privileged position with regard to membership of occupational pension schemes. However, evidence is available to indicate that lower benefits from such membership are linked to lower pay as well as poorer career opportunities. Hence pay is the next subject for discussion.

III Pay

Women, as a class, receive lower pay than men, though the differentials have narrowed in recent years. Routh (1980) has traced the relationship between occupation and pay in Great Britain during the period 1906-1979. His findings show that throughout this time women were, on average, earning less than men, though women improved their

position considerably (Routh, 1980, Table 2.28, p.123). Women clerks showed the greatest relative improvement and female semi-skilled workers the least. Routh comments on the latter as a group 'whose moderate pay increase and large numbers' (nearly 33% of all women in 1971) 'have combined to hold down the women's overall average compared to that of the men' (ibid., p.133).

Evidence is presented by Routh of male/female earnings differentials not only as between 'sex-segregated' occupations but also within relatively 'integrated' occupations. For instance 'skilled men' in sex-specific occupations such as coalface workers, engineers, carpenters, bricklayers, railway workers and compositors were earning £1440 per annum in 1970 and £4354 in 1978: skilled women such as chefs, cooks, machinists and hairdressers earned £667 and £2246 respectively (ibid., pp.102 and 106). By comparison male teachers were earning £2018 in 1970 and £5686 in 1978: women teachers were earning £1530 in 1970 and £4568 in 1978 (ibid., Table 2.9, p.72).

The average gross hourly earnings (excluding overtime) of women over 18 were 63.1% of those men over 18 in 1970, rising to 75.1% in 1976, the year after the EPA came into force. They peaked at 75.5% in 1977, and were 74.2% in 1978 (EOC, 1984, Table 4.1, p.89).

Table 22

Average gross weekly full-time earnings (including overtime): GB, 1983.

£ per week

	Manual			Non-manual		
Age	Men	Women	Women's as % of men's	Men	Women	Women's as % of men's
Under 18	61.7	57.4	93.0%	58.9	54.9	93.2%
18 - 20	97.4	74.9	76.9%	89.8	79.1	88.0%
21 - 24	125.7	86.9	69.1%	121.6	100.0	79.0%
25 - 29	139.8	92.0	65.8%	163.9	121.2	73.9%
30 - 39	151.9	91.9	60.5%	203.7	129.6	63.6%
40 - 49	151.9	91.7	60.4%	221.7	128.2	57.8%
50 - 59	140.9	88.5	62.8%	208.6	124.2	59.5%
All ages	138.4	86.7	62.6%	189.6	113.5	59.9%

Source: EOC (1984a), Table 4.4, p.91.

The above table shows that male and female full-time earnings approximate most closely very early in working life. Large disparities in average full-time earnings exist from the age of 30 and are even more pronounced among non-manual workers over 40 than among manual workers, perhaps as an effect of differential gradings and placement on incremental scales.

Hakim has argued that occupational segregation is an inhibiting factor in the move towards equal pay for men and women (Hakim, 1979,

p.48). Chiplin and Sloane's study of sex discrimination in the labour market led the authors to conclude that 'intra-occupational earnings differences between the sexes are more important than the inter-occupational distribution of employment (Chiplin and Sloane, 1976, p.47). These authors highlight some effects on female earnings with regard to non-manual workers (who tend to be employed on incremental pay scales) on the one hand and manual workers on the other. Where non-manual workers are paid incrementally (including in the public sector where 'equal pay' has been in force fully since 1961), males on average earn more than females. 'This reflects not only the fact that men tend to be employed more than proportionately on higher grades, but also that on average men tend to be at a higher point on the incremental scale relating to service'.

Such incremental scales are characteristic of, but not exclusive to, public sector employment (ibid., p.45). Thus married women 'will be at a disadvantage because they are more likely to experience a break in service' since starting salaries (other than for beginners) are related to previous service (ibid., p.46). In addition, appointments on incremental scales are made in some cases with reference to the 'market point' so that women in general, with their tendency both to be paid less and to accept lower pay, can be at a disadvantage.(60) Chiplin and Sloane also produce evidence which indicates that women, and, in particular, manual workers, are concentrated in lower paying establishments and are over-represented in small establishments (ibid.).

Large numbers of women are employed in the Civil Service, local government and within the National Health Service. Undoubtedly a major factor in the disparities of public sector pay as between men and women can be accounted for by vertical occupational segregation.

In 1979, women comprised 90.8% of all Scale 1 primary school teachers, 51.5% of Scale 4 and 43.4% of all heads: they comprised 59.6% of all Scale 1 secondary school teachers, 21.6% of all Scale 4 and 16.5% of all heads (EOC, 1982, Fig.4.1, p.76). 32.4% of men but only 8.3% of women were, in 1979, earning more than £6,000 p.a. in the secondary sector (ibid., Table 4.7, p.75). In local government 'non-manual' women are heavily concentrated in the clerical grades - around 80% of employees in the lowest grades are women. About 25% of the administrative and professional grades (which include teachers and social workers) are female, 10% of senior officers and a tiny proportion of principal or chief officers (Local Government Operational Research Unit, 1982, Fig.5, p.5). Popplestone (1980) has documented similar occupational segregation in local authority social services departments and McGuire (1980) has pinpointed the emergence of similar trends in nursing.

The Civil Service is another occupation characterised by vertical occupational segregation (Brimelow, 1981; SBC, 1979, Ch.7). Such segregation was documented in detail for the DHSS in 1978 wherein women comprised a higher proportion of staff than in the service at large (SBC, 1979, Ch.7, S7.22 including Table 7.1, p.68). In 1982, women comprised 81% of clerical assistants, 61% of clerical officers, 27% of executive officers, 7% of principals and 4% of assistant secretaries (Management and Personnel office, 1983, Table 2, p.12). Thus highly-paid women are a-typical in the Civil Service.

Even among the highly qualified, pay differentials between men and women emerge at an early stage. Williamson (1981) studied 1970 graduates in 1977. Two-thirds of the women were still in employment (ibid., p.18) but were earning consistently lower salaries than the

men (ibid., p.20). After seven years, females were earning 10% less than their male contemporaries (ibid., p.48). Marriage appeared to be associated with higher male salaries and lower female salaries (ibid., pp.52-53). These findings are consistent with those of Greenhalgh (1980) who found that while women in general earned less than men, married women were the most disadvantaged and single women the next most disadvantaged group as compared with single and married men. Greenhalgh (p.757) found that lower female earnings were associated with the presence of children, while children were associated with higher male earnings. However, despite their having less risk of discontinuities in employment, Chisholm (1978, p.329) found that, in 1975, single women graduates had achieved less in terms of career development than their married male counterparts in the fifteen years since graduation. Women in general had achieved better levels of pay in school teaching and public service occupations.

There are still only small numbers of women in membership of the elite professions and professional institutes and associations. Only 23.4% of members of the British Medical Association were female in 1983, 14.4% of the Institute of Bankers, 14.2% of the Law Society (solicitors), 5.6% of the Institute of Chartered Accountants and 1.6% of Chartered Surveyors. The largest group were the 16,517 qualified female bankers, closely followed by the doctors: the surveyors numbered only 818 (EOC, 1984a, Table 5.3, p.96).

The 1980 survey of women's employment well illustrates the typically low levels of female pay, especially that of part-time workers. In 1980, the average earnings of full-time women over 18 were £73 and those of full-time men over 21 were £124.50 (Martin and Roberts, 1984, p.43). Only 6% of full-time women earned over £112.

Table 23

Gross weekly earnings: full and part-time women : GB, 1980.

(Net earnings in bracket)

Weekly earnings	Full-time	Part-time	All
	%	%	%
£1 - £10	0 (0)	12 (12)	6 (6)
£11 - £20	1 (1)	24 (26)	11 (12)
£21 - £40	8 (24)	45 (54)	24 (37)
£41 - £60	32 (51)	14 (7)	24 (31)
£61 - £80	31 (17)	4 (1)	19 (10)
£81 - £100	15 (5)	1 (0)	9 (3)
£101 - £120	7 (1)	0 (0)	4 (1)
Over £120	6 (1)	0 (0)	3 (0)
Average weekly earnings	£71	£29	£52

Source: Martin and Roberts (1984), Table 5.1, p.43 (based on 90% response to survey).

The best paid workers, both full and part-time, were the teachers followed by other 'nursing, medical and social' workers. Among the non-manual workers, sales workers (notably the full-timers) were particularly badly paid - only semi-skilled domestic workers earning as little (ibid., Table 5.4, p.45). Teachers were by far the best paid of the 'long-service' (10 years or more) women workers (ibid., Table 5.6, p.45) perhaps reflecting the high proportion of graduates who chose teaching as a career in the 1950s and 60s (Kelsall et al., 1972).

In terms of remuneration, far fewer women than men achieve levels

of pay likely to ensure substantial occupational pension benefits on retirement. Martin and Roberts (1984, p.46) show that women's low pay is partly explained by horizontal occupational segregation, i.e. working in 'women only' jobs. It remains to be seen whether recent amendments to equal pay legislation intended to achieve equal pay for work of 'like value' (see Townsend-Smith, 1984) will help to reduce such male/female pay differentials (see Carty, 1984).

IV Unemployment

Since the mid-seventies, 'economically active' people have become increasingly at risk to unemployment. Job loss hazards the completion of the lengthy period of paid employment necessary for maximisation of occupational pension scheme benefits. A job change, brought about through redundancy, may lead to membership of a scheme conferring inferior benefits to those previously enjoyed or to loss of access to an employer's pension scheme.

Official statistics show that whereas in 1979, 316,300 women (excluding school-leavers) were registered as unemployed, the figures had risen by December 1983 to 832,000, including 334,100 married women (Employment Gazette, 1984, Vol.92, No.8, Table 2.1, p.319). However, official figures on female unemployment are notoriously unreliable, since married women in particular tend to be under-represented (Rimmer and Popay, 1982, p.30).[61] By the end of 1983, Britain was experiencing the highest rate of unemployment of the post-war period, with certain regions, occupations and age groups being particularly hard hit. Such unemployment is significant in the context of this study since it may delay entry to membership of an occupational pension scheme or result in abrupt termination of employment with no 'freezing' of occupational benefits if the job has been held for less than five years[62] or reduce the total length of working life through enforced

'early retirement'. Employees in occupational pension schemes are 'targeted' for so-called voluntary redundancy where employers seek to reduce their payrolls by 'natural wastage'.(63) The extent of the effects of unemployment on access to occupational pension benefits is not known.

Martin and Roberts (1984, p.79) emphasise that their survey of women's employment, unlike most unemployment studies, addresses female unemployment in depth. It is clear from their findings that 'non-working' women are a far more heterogeneous group than men. While 'unemployment', in the sense of not being able to find a paid job when available for work, was, by 1980, being experienced by a significant proportion of very young women, a high proportion of other women were unemployed, or rather, 'non-employed', for other reasons, largely domestic. In 1980, 5% of all women but 15% of the non-working women were 'unemployed' in the accepted sense of the term (Martin and Roberts, 1984, Table 7.1, p.81). Of the rest of the non-employed, apart from 6% who were permanently unemployed due to ill-health, 52% were economically inactive because they were looking after children, 3% through looking after other relatives and 20% because they were 'keeping house'. In all, 26% of the sample were out of the labour market for 'domestic' reasons. Only 21% of the 'non-working' women (mainly older women) were not expecting to work again (ibid., Table 7.2, p.81). Pregnancy was the major reason for giving up work for active job-seekers categorised as 'non-employed' rather than 'unemployed' (ibid., Table 7.14, p.87) but it is significant in the context of this study that such women had also left their last positions so as to move because of their husband's job, to look after children or other relatives, or for other

domestic reasons (ibid.). 26% of the 'non-employed' and 12% of the 'unemployed' job -seekers had been out of the labour market for more than five years.(64)

Thus, in recent years, unemployment has further complicated the issues relating to female access to membership of occupational pension schemes. For many women the 'normal' hazards of unemployment during an economic recession (shared by men) have been compounded by women's characteristic period of withdrawal from the labour market for 'domestic' reasons. Such withdrawal effectively puts women in the position of being 'long-term unemployed', a category known to suffer disadvantage in the labour market (Hawkins, 1984, pp.61-66). When the constraints of female domestic commitments as discussed in the next section are added to the geographical immobility which is characteristic of women whose husband or partner is established in a paid job,(65) the difficulties of re-entering the labour market after a break are increased. It is on the issue of paid work in relation to domestic work that the next section focuses.

V The domestic division of labour

From the discussions so far, it has become clear that the majority of women do not experience an uninterrupted working life. Their absence from the labour force derives from the traditional domestic division of labour which assigns to husbands the role of 'breadwinner' and to wives the role of 'housewife'. It also derives from the fact that, other than unusually, women have a major responsibility for the care of children (Hunt, 1968, pp.12-16; Martin and Roberts, 1984, pp.96-101). Women also take primary responsibility for the care of sick and elderly relatives (Hunt, 1968, pp.109-114, Finch and Groves, 1983;

Martin and Roberts, 1984, pp.112-113). Martin and Roberts show clearly that, while economic activity rates differ little as between childless women of different marital statuses, there is a marked difference between the amount of paid work undertaken by women who have had children and those who have not (ibid., p.13).

Married women in particular show a propensity to work part-time: in Martin and Roberts' 1980 sample, 55% of married women worked part-time as compared with 37% of widowed, divorced and separated women and only 4% of single women (ibid., Table 2.17, p.17). In 1980, 'among women aged 45-59 only 29% of the married women were working full-time as compared with 48% of the non-married women' (OPCS, 1982, p.84). This age group has a small proportion of 'dependent' children. J K Galbraith has referred to women as a 'crypto-servant' class with 'the servant wife being available, democratically, to almost the entire present male population' (Galbraith, 1974, p.33). While Galbraith was referring to the United States, evidence presented by Martin and Roberts suggest that the remark was equally applicable in Britain in 1980. Indeed, as Finch (1983) has shown, there are a number of male occupations which actually incorporate the unpaid services of wives. It is women in the 30-59 age group married to 'professional men, employers and managers' who are least likely to be in paid work where there are no dependent children (OPCS, 1984a, Table 6.23, p.116).

Becker (1965) has pointed out that households produce as well as consume and that the household economy may usefully be divided with time spent on paid activities by 'Members who are relatively more efficient' (Becker in Amsden, 1980, p.75). Greenhalgh (1981, p.18) has discussed the taxation of husband and wife in terms of 'the opportunity cost arising when individuals engage in market work

rather than producing goods and services at home' and set out a model tax system which 'avoids disincentives for the lower skilled to go out to work' (ibid.). Undoubtedly the traditional 'division of labour' between workplace and home owes much to the reality that up to now women, as a class, have had lower earning power than men. Thus 'low wages, dependence and housework for women are a trio of mutually reinforcing ideas, each justifying and producing the conditions for the others' (Barrett and McIntosh, 1981, p.61).

Linked with the traditional division of labour, the history of which has been traced by Wainwright (1978), is the concept of a 'family wage'. Land (1980) and Barrett and McIntosh (1981) have chronicled the mid-19th century rise of the 'male breadwinner', ideally earning sufficient to 'keep' his wife and children. Low pay for women entering white collar occupations in the later 19th century was justified on the (erroneous) grounds that such women inevitably lived at home and did not 'keep' their relatives. Unequal pay was still being justified on such grounds after the second World War (Land, 1980, p.72).

However, since World War II married women in particular have increasingly taken up paid work for financial reasons. In 1965, 80% of married women in Hunt's survey of women's employment acknowledged the financial attraction of work outside the home (Hunt, 1968, p.181), while Dunnell in 1976 found that this featured strongly in the reasons given by women who worked both after marriage and between first and second births (Dunnell, 1979, Table 6.5, p.31). 'Financial' reasons for engaging in paid work featured strongly in Martin and Roberts' 1980 survey (1984, Table 6.1, p.61), though married women as a category had less 'financial dependence' on work than the non-married (ibid., Table 6.3, p.62).

Evidence has accumulated on the crucial contribution of a wife's wage to the household budget (Hammell, 1979; Land, 1981, pp.13-16; Martin and Roberts, 1984, p.105). The FES 1980 showed that, in families with dependent children, wives contributed an average 20.5% of household income and 31.9% where there were no dependent children. Households without a 'working wife' were significantly worse off (D of E 1982, Table 43, pp.108-109). Such figures mask a range of wifely contributions, including cases where the wife earns more than her husband (Rimmer and Popay, 1982, p.62). Elias (1984, p.10) has shown from FES data that the number of full-time working wives who earn as much or more than their full-time working husbands has risen from 5% in 1968 to 14.5% in 1980, representing one in seven households where both husband and wife are in full-time jobs (ibid., p.15).

Layard et al. attempted to account for married women's labour force participation and suggest that this rises in proportion to the amount that a wife can earn (Layard et al., 1978, p.64). They found that a rise in women's wages increased the proportion of women working, whereas a rise in the husband's wage decreased it. The main barrier to women's working was, however, the presence of children under 6 (ibid., p.65). Certainly, the tendency for women to do paid work only up to a point where they are not required to pay NI contributions and/or tax, squares with Layard et al.'s contention that women 'maximise' their earnings. However, it does appear that where women are capable of earning 'good' salaries, their propensity to work rises. A study of female chartered accountants in 1972 shows that 89% were economically active, including 30% who were working part-time (Silverstone and Ward, 1980, Table 2.2, pp.35 and 39). High participation rates are also apparent in recent studies of women doctors (Elston, 1980,

pp.117-121) and dentists (Fox and Seward, 1980, pp.89-91). Martin and Roberts (1984, Table 9.12, p.126) found that the best qualified women, with 'A' levels or above, had the greatest propensity to return to paid employment within six months of their first birth.

The time when a male-generated 'family wage' is crucial is when the children in a household are very young. Layard et al. (1978, p.65) found that female labour force participation was strongly affected by the presence in the household of children under 6. Martin and Roberts' (1984, p.13) findings were that women with dependent children were significantly less likely to be economically active than those without: the level of economic activity decreased where children were very young or where the family increased in size (ibid., Table 2.5, p.13). However, levels of economic activity among women with younger children have increased in recent years. By 1982, 21% of British women with children under 2 were economically active (5% full-time and 16% part-time) and 34% of those with children of 3-4 (6% full-time and 28% part-time), as compared with 69% (25% full-time and 44% part-time) where the youngest dependent child was over 10 (OPCS, 1984, Table 6.11, p.109). Figures on female economic activity may well under-represent the total, since the presence of young children is a major factor in women undertaking 'home work' (Hakim, 1982, p.373) which is, typically, low-paid (Glucklich and Snell, 1982, p.20), though not inevitably (Hakim, 1982, pp.375-76). Martin and Roberts (1984, p.32) identified a group of 'subsidiary' workers in their 1980 survey, some of whom did 'home work' for low wages.

Within the context of the 'domestic division of labour', women's paid employment tends to be fitted around domestic responsibilities, as recently documented by Land (1981, pp.16-21). This is as true

for professional women as for others. A 1976 study of women doctors found that 80%, if married, were solely responsible for shopping, cooking and looking after sick children. 50.6% were solely responsible for house cleaning, 4.7% had help from their husbands and 44.7% employed paid help for cleaning (Elston, 1980, Table 5.2, p.122). Land (1981, pp.16-18) argues that there is no evidence that men contribute substantially to cooking, cleaning and household management at the present time in married households. A recent study of households containing a severely disabled elderly person showed that the full brunt of 'tending' fell upon wives (Nissel and Bonnerjea, 1982). Thus 'there is often a conflict between a woman's responsibility towards other members of her family and her activities in the labour market, whereas for men there is not. Women and men do not therefore compete on equal terms in the labour market' (Land, 1981, p.1).

Super (1957) quoted in Silverstone and Ward (1981, p.12) devised a taxonomy of female career patterns as follows:

Stable home making	little or no work history
Conventional	gives up on marriage or first child
Stable working	continuous working
Double track	combines work and home making
Interrupted	stops work when children are young: returns later
Unstable	irregular: depends on external events
Multiple trial	succession of unrelated jobs

This list, designed to categorise American women in the mid 1950s, has a certain historic relevance, since the term 'conventional' applies to a career pattern which has also been characteristic of the U.K. The term 'conventional' would now be more usefully applied to the

'interrupted' category, sometimes referred to in the British literature as the 'bi-modal' career (Hakim, 1979; Silverstone and Ward, 1980). It is noteworthy that seven categories are required to delineate the career patterns of women, whereas evidence on male economic activity indicates that, unemployment aside, the 'stable working' career is still the one which applies typically to men.

As Wainwright has argued, the traditional domestic division of labour was little discussed in the literature of the social sciences until the mid 1970s. 'In an economy where a person's capacity to work is bought and sold in exchange for a wage, labour which is performed on the basis of personal relationships rather than on the basis of monetary exchange is not regarded as labour' (Wainwright, 1978, p.160). Women's domestic work appears as a 'natural part of family life'. The economic dependence of most married women is regarded as 'natural' - a relationship which is, ideally, based on affection.

Evidence exists to show that the aspirations of the current generation of young women are, like those of previous generations, geared towards the 'marriage career' or 'love career' (Hakim, 1979, p.15) and that this partially accounts for the low educational and employment aspirations of many girls and young women. Purcell (1978, p.154) argues that girls are 'brought up to think of womanhood as a career' and that 'the pinnacle of this career is motherhood'. By the same token, boys are brought up to 'regard women's main career as a wife --- and mother' (ibid.). Purcell points out that, having achieved that career, 'women accommodate their employment arrangements to parenthood in a way that men do not, simply because there are no practical alternatives' (ibid., p.153).

Hakim (1979, p.14) notes the suggestion of Sullerot (1971) that 'the bi-modal work profile has consequences not only for the individual person who follows this work pattern but more generally for all working women in providing the basis of prejudice against them'. Undoubtedly the association between female gender and domesticity (which represents reality) does engender the stances quoted in Hunt's 1975 study of management attitudes where it was notable that only 20% of the male policy 'formulators' and one-third of the policy 'implementers' had working wives and they themselves did little domestic work (Land, 1981, p.19).

In commenting on occupational segregation, Hakim noted that 'a great many of the occupations in which women were over-represented are typically feminine in that they draw on skills exercised on an unpaid and non-specialist basis in the home' (Hakim, 1979, p.31). 'Professional' women are most highly represented not in the 'elite' professions, but in teaching, nursing, social work and medical ancillary professions, which might be said to call on traditional female 'caring' capacities. Teaching is a particularly interesting case since there is no doubt that the great popularity of teaching as a career, for such women as have been able to gain access to necessary post-school education since the second World War,lies in the fact that it is seen as a career which 'fits in' with family life, one in which full-time or part-time jobs (until recently) could be obtained in any location. The result of this scenario has been that, as noted in a report on promotion and the woman teacher (NUT/EOC, 1980):

> 'There seems to have been established over the years an immutable concept of the woman teacher as a married woman with small children, who is uninterested in promotion. As far as can be ascertained all women teachers, young and old, are related to this concept with inevitable and disastrous consequences to their career prospects.'
>
> (ibid., p.54)

Certainly the D of E survey has confirmed a number of earlier findings alluded to above. In their conclusion, the authors state that though women are working for more of their lives 'most women are still primary domestic workers and secondary wage earners in a family' (Martin and Roberts, 1984, p.191). While women's relationship to paid work has been changing 'women do not participate in the labour market on the same terms as men and the conditions under which they offer themselves, for example as part-time workers, may go some way to explaining the segregated and secondary nature of much of the work they do'. (Ibid., p.192) 'Our data suggest that most women accept or accommodate to the sexual division of labour---' (ibid.).

VI Women, paid work and access to occupational retirement benefits.

The aim of this chapter has been to focus on aspects of female economic activity which help to explain the continuing under-representation of women in occupational pension scheme membership and the typically lower benefits which accrue to women.

In the first place, it can be concluded that the majority of women suffer from discontinuities in paid employment largely attributable to their primary responsibility for the unpaid work of the home. Formerly, marriage was the event which removed women from the labour market: now it is the birth and care of children (and, to a lesser

extent, the care of dependent relatives) which now largely account for women being economically inactive. Women of the current generation, especially if married, have a propensity to leave paid work from their mid-fifties, thus further shortening their working lives. Undoubtedly the NI rules applied until recently to married women have contributed to this 'early retirement' phenomenon. Thus, many women end their working lives with a total number of years of service well below the possible maximum: even if women end up with a good 'final salary' and pay additional voluntary contributions into an occupational pension scheme, a reduced total of pensionable service years reduces the value of retirement pension benefits.

Secondly, many employed women have prejudiced their opportunities to obtain occupational pension benefits by working part-time, or in employments which do not provide such benefits. It has been shown that employers commonly exclude part-timers from pension schemes (one reason which makes part-timers a 'cost-effective' pool of labour). Furthermore, a high proportion of women work in sex-segregated occupations which makes it easy for employers to 'contract-in' all women in such employments to SERPS, which does not provide lump sum benefits, nor tax relief on contributions.

In addition, women are under-represented in those salaried and professional occupations in which good 'fringe benefits' are commonly to be found. And even where women are working in this type of non-manual occupation, they tend to congregate in the lower, less well-paid grades, where their eventual lower pension benefits (as compared with men's) are a reflection of women's lower life-time earnings. Martin and Roberts (1984, p.145) found that 'childless women were much more likely --- to be found in non-manual occupations, particularly

in the higher level occupations which fall in Social Classes I and II, and in the clerical occupations.' 14% of childless women over 30 were teachers, 2% were 'professional': of women over 50 whose children were over 16, 5% were teachers and a nil percentage was professional.

It does appear that the woman who achieves a lengthy working life in full-time employment, in an occupation of the type which confers occupational pension benefits, is a 'deviant'. In the past such women were most likely to have remained unmarried: the 'older' women in the current working population are the last generation of whom a choice was expected as to 'career or marriage'. Given the negative stereotypes of single women which were still being put about in the immediate post-war period, this was not a 'choice' which many young women made or were encouraged to make (i.e. Newsom, 1948, pp.108-9; Zweig, 1952, pp.62-66).

From previous discussion it has become apparent that the typical woman is a 'secondary' wage-earner, operating largely in a 'secondary' labour market of poorly-skilled, badly-paid and less secure jobs as compared with the 'primary' sector of comparatively well-paid skilled and secure jobs characteristically occupied by men (Bosanquet and Doeringer, 1973) and by some, mainly younger women. While it is true that men in this primary sector are at risk to unemployment they are better placed than the majority of women working in their own 'sex-segregated' labour market (Hakim, 1979).(66)

It is a minority of women who generate lifetime earnings on a scale which ensures freedom from all financial worries or even considerations in old age. As indicated, it is a substantial index-linked occupational pension, with an accompanying lump sum, which especially

advantages people in retirement. In consequence of women's traditional position as financial dependants, both state and occupational pension schemes have come to incorporate survivors' pensions and benefits, initially with the needs of widows in mind. Such provision has tended to re-inforce women's perceived position as the actual or potential financial dependants of men. Furthermore, with the increasing incidence of divorce, many more women are at risk to the loss of such potential benefits, which may be regained only by re-marriage to a man who can potentially confer them. Perhaps the most unenviable position of all with regard to access to occupational pension benefits is that endured by 'lone mothers' who are less likely than their married counterparts to be in paid work (Martin and Roberts, 1984, p.109). Their financial need is much greater (ibid., p.110).

Women's position in the labour market and their primary responsibility for the unpaid labour of the home, despite equal pay, sex discrimination and employment protection legislation, places them in a disadvantageous position as regards access to occupational pension benefits.(67) Married women who outlive their husbands may be compensated to some extent by eligibility for occupational widows' benefits. It is on such survivors' benefits and their potential loss on divorce, that Part V of this study focusses.

Part IV: References

Chapter 5 Occupational Pension Provision and Sex Discrimination: Issues of Equal Access, Treatment and Status

1. See this Chapter, section II below.

2. As subsequently amended by the SDA 1975 and other legislation. Until 1/1/1984, the EPA provided that, where a woman is employed on 'like work' to a man, or is doing work 'which is different but has been given equal value under a job evaluation exercise', she is entitled to be treated equally with a man. Such a woman is treated as though she has an 'equality clause' in her contract of employment, even if none is stated. An employer is then required to treat women equally with regard to pay (basic and otherwise), sick leave, holidays, etc. (OPB, 1976, Ch.2 S2.2-2.3, p.5). On 1/1/1984 the Equal Pay legislation was amended, in the light of a 1982 ruling that the U.K. was in breach of Community Law, to allow women to also claim equal pay for work of equal value (Equality Now, No.2, 1984, pp.3, 18).

3. The SDA 1975 renders unlawful discrimination on the grounds of sex in the fields of employment, education and goods and services. Social welfare benefits and tax are outside the scope of this legislation, under S51, p.32 of the Act. It is also unlawful to discriminate against a person on the grounds that he or she is married (S3, p.2).

4. For discussion on the conceptual approach of the Equal Pay and Sex Discrimination Acts, see OPB, 1976, S2.16-2.22, pp.8-10.

5. The Crossman diaries (1977, pp.789-90) portray Mrs Castle as most anxious to include pensions in the Equal Pay Bill, which move Crossman and his DHSS strongly opposed, since the Bill concerned 'pay and wages, not benefits, our side of things'. When the Bill was in Committee, Crossman received a letter from Mrs Castle hoping that he would agree to insert a new 'pensions' clause into the Bill. He was not prepared to do this, went specially to the Committee and discovered that Mrs Castle had sent a deputy to the meeting. At this point it appeared unclear to Crossman, from discussion with the deputy, just how committed the Department of Employment itself was to such a clause. The matter was dropped.

6. See OPB, 1976, S2.23-2.26, pp.10-11.

7. Article 119 of the EEC Treaty establishes the principle of 'equal pay for equal work'. There are also three directives which are 'in essence ... an order from the Community to the Member States to alter their internal laws so as to achieve a certain harmonised result' (Ellis and Morrell, 1982, p.16: see also Rights of Women Europe, 1983, esp. Ch.5, 6, 7 and 11). Directive 75/117 on equal pay provides for the elimination of sex discrimination in matters of remuneration. 76/207 is directed towards the equal treatment of men and women with regard to working conditions. 79/7 'provides for the progressive implementation of the principle of equal

treatment in matters of social security', though differential state pensionable ages for men and women are permitted (see: Ellis and Morrell, 1982, p.17; Atkins, 1980; Luckhaus, 1983).

8. Draft Council Directive on the principle of equal treatment for men and women in occupational social security schemes, see below.

9. An example of the 'identical' approach would permit both male and female scheme members to confer a widowhood pension should they predecease their lawful spouse: the 'package' or 'comparison' approach would allow men, but not women members, to confer widows' benefits. In this second instance, the 'actuarial' tendency for women members to draw their pensions for a longer time than men would be traded off against the 'actuarial' tendency for men to pre-decease their younger wives.

10. See Ch.6, SII.

11. See below in relation to the Draft Directive on equal treatment in occupational social security schemes.

12. See Ch.7.

13. See Ch.6, SII, and Ch.8.

14. An exception was proposed in the case of commutation, allocation or additional voluntary contribution options exercised by scheme members, where it was argued that it was fair practice to allow for greater female longevity, even if the pensionable ages became uniform (OPB, 1976, S8.39-8.59).

15, 'Indirect discimination' is practised where a requirement is applied to a man or woman in such a way that (1) the proportion of the members of one sex who can comply with it is smaller than the proportion of the other sex who can so comply; (2) the requirement cannot be shown to be justifiable irrespective of the sex of the person to whom is it applied; and (3) it is to the detriment of the person who cannot comply with it (Sex Discrimination Act 1975, S1, p.1).

16. For general discussion of EEC legislation and pensions see Boden (1980); Corcoran (1981); Ellis and Morrell (1982); Ellison (1983); Rights of Women Europe (1983).

17. An early test of the applicability of Article 119 came with the series of test cases arising from the case of a Belgian air stewardess who was required to retire from her job at 40, when men were not so required (see: Ellison (1976); Rights of Women, 1983, pp.27-28, 48-51; TUC, 1983a, pp.13-14).

18. See ref. 7 above.

19. Factual detail on this case from Corcoran, 1981, pp.20-21; Court of Justice of the European Communities (1981); Ellis and Morrell, 1982, pp.17-22; Ellison (1981); TUC, 1983a, pp.14-15; TUC, 1983b, pp.6-7; Rights of Women Europe, 1983, pp.57-59.

20. Prior to the implementation of the 'equal access' requirement of the SSPA 1975.

21. Apparently 'the bank felt that women under 25 were unreliable employees and would soon leave the bank to marry and bring up children' (Rights of Women Europe, 1983, p.57).

22. At the time, the provisions of the Social Security Act 1973 were in force, requiring employers to 'freeze' employee contributions (if not transferable) if the employee had completed five years' service and reached the age of 26 (Muir McKelvey, 1977, Appendix 6, pp.212-223). Otherwise the employee could take a return of contributions if the scheme so provided.

23. There is a sense in which the appellants were claiming 'equal (deferred) pay'.

24. The outcome affected 13,800 women under 25 employed by Lloyds at the time (Ellis and Morrell, 1982, p.8). The cost to Lloyds of changing the pension arrangements has been estimated at £3 million (Rights of Women Europe, 1983, p.59). At first Lloyds proposed to introduce an average contribution rate for all employees under 25 'which would have worsened the position of male employees without improving that of the female employees', though better terms have since been secured by the Banking, Insurance and Finance Union which had helped the appellants bring the case, which was supported financially by the EOC under S75 of the SDA.

25. Directive 79/7 'requires Britain to abolish discrimination on the grounds of sex, marital status or family status' in its laws on social security, but specifically excludes pensionable ages and survivors' benefits from its remit, which is also limited to contributory benefits and Supplementary Benefit (see: Atkins, 1981). This document is also known as the Sex Discrimination (Social Security) Directive (Ellison, 1983, p.21). In March 1984, the European Parliament recommended to the Commission of the European Communities that the survivors' benefits clause be deleted (McGoldrick, 1984, pp.122-23).

26. COM (83) 217 FINAL published 29/4/1983.

27. Proposal for a Directive 'concerning the progressive implementation' etc. Document COM (76) 650 final, 3/1/1977), included as Annex 5 of the second Consultative Document (DHSS, 1977), see S8, p.2.

28. A discussion paper had been circulated in 1982.

29. It was proposed in March 1984 that the text be amended to include 'part-time workers, temporary workers and those working at home' (Pensions, April 1984, p.11).

30. The 'technical' pensions literature shows ample evidence of this.

31. An interesting technical question can be raised as to the effect of the draft directive on the occupational mortality of actuaries.

32. Boden (1980, p.373) notes that the impetus for the European Community's involvement with 'equal rights for women did not stem from any fundamental desire to further the cause of women's rights but, instead, to prevent one member state from having a competitive advantage over another by being able to use cheap female labour'. In legislating for equal pay, the motivation was not social, but economic.

Chapter 6 Equal Treatment: Issues Relating to Differential 'Normal' Retirement Ages for Men and Women in Occupational Schemes and to Eligibility for Survivors' Benefits

33. 'Retirement age' within the NI system is the age at which a basic retirement pension and SERPS becomes payable (at an enhanced rate) regardless as to whether the recipient has actually retired from employment - 65 for women and 70 for men. The maximum increase over five years is 37% (Matthewman and Lambert, 1984, S12.51-12.53, pp.274-75).

34. See H of C, 1982, 26-I, S8, pp.ix-x. 28% of male public servants, mainly in local government, can retire on pension between 60-65: Civil Servants are among the 35% of public servants who can retire at 60. Less than 25% of male public servants have a 'normal retirement age' of 65.

35. For detail see Thane (1978b).

36. Widows' and Orphan's Pensions Act 1940.

37. It would seem likely that the existence of the menopause, along with the myths and realities which surrounded it, fed into beliefs that middle-aged women were less fit than men.

38. The Job Release scheme operative from 1/1/1977 has paid the equivalent of an early state retirement pension to men and women leaving their paid employment to be replaced by an unemployed person: as of 31/12/1983, the arrangement applied to men of 62 (60 if disabled) and women of 59 (H of C, 1982, 26-II, Annex 9, pp.62-63).

39. Age allowance for 1983-84 was £2,360 (maximum) as compared with a single person's allowance of £1,785. It was available in full on total incomes below £7,600 and tapers off above that amount (Consumers' Association, 1984, pp.5 and 45).

40. Divorced men tend to marry women younger than themselves - older men tending to select much younger women in a significant number of cases. Divorced women commonly marry men younger than themselves (OPCS, 1984b, Table 3.7, p.30: England and Wales).

41. Cost is the major reason why no move towards equalisation of pensionable ages has been made. Savings would arise from raising the female age, increasing as more women become entitled to pensions on their own contributions. The 'break-even' point for equalisation, at which savings from the raising of the female age would be offset by the cost of lowering the male age, is 64. (See H of C, 1982, 26-II, Appendix I, pp.457-461).

42. The number of women who had revoked their National Insurance pension after reaching the age of 60 were estimated by the DHSS as being 135,000 for Great Britain in 1977 of whom just over half were single females. Of these, 18% were managerial, professional or teachers (men 39%), 21% were clerical (men - nil), 6% were shop assistants (men 4%), 10% were skilled manual (men 27%), 24% were semi-skilled manuals (men 23%) and 21% unskilled manuals (men 7%). The meaning of 'single' is not given: man equals 'male-headed family' (H of C, 1982, 26-II, pp.403-404).

43. Equalisation of pensionable age is a matter being brought to the attention of the Government Inquiry on Provision for Retirement which is sitting during 1984.

44. A female employee of the Southampton Area Health Authority has successfully pleaded unlawful discrimination under the Equal Treatment Directive 79/7 since her employer required her to retire at 60 where a man would have been required to retire at 65. The Industrial Tribunal's decision was over-turned by an Employment Appeal Tribunal, but the case is subject to an appeal being heard in the European Court of Justice in 1985.

45. E. Short, Financial Times, 26/10/1976, quoted Pilch and Carroll (1976).

46. NALGO launched a campaign in 1984 for equal occupational pension rights for women workers, including widowers' pensions (Guardian, 27/4/1984).

47. A change made in the wake of the EPA 'as a gesture in support of the principle of non-discrimination' through the exercise of discretion under Section 20 of the Finance Act 1970 (Bates, 1983, p.692).

48. Personal communication: EOC (see: EOC, 1984, S9, p.26).

49. Scheme rules may specify, for instance, that the husband must have depended on his wife for all or most of the necessities of life or state that his wife must have been wholly or partly maintaining him: it is frequent for the husband's ill-health

to be a necessary condition for receipt of a widower's pension, this being a 'legitimate' reason for a couple not to conform to the 'normal' domestic division of labour with the male as 'breadwinner'. This is an area where, within the framework of the rules, trustees' discretion operates (Rossetenstein, 1981, p.325).

50. Julia Reay, a teacher, persuaded the Government Superannuation Scheme that her husband, unemployed for three years, is a dependant. This took three years. It was claimed by the scheme that dependency, for a man, must mean 'inability to work, not just unemployment'. She was also apparently informed that 'it is not the intention to provide cover where the husband and wife have exchanged roles'. (Pension News, No. 1589, 1983: The Times, 5/3/1983).

51. Married scheme members can be disadvantaged here, since the scheme rules may permit only a spouse to receive such a death benefit, despite the fact that the spouse might, for instance, wish the sum to go to an adult handicapped child. The sum is tax free only when paid out by the trustees and not if it is paid into the deceased person's estate.

52. The writer is persuaded that at present, elderly mothers and handicapped siblings would be typical 'deserving cases': male cohabitees or 'gay' female partners, less so.

Chapter 7 Occupational Pension Entitlement and Women's Paid Employment

53. In the sense of being in paid work or available for it.

54. 'Working life' is typically defined as 16-59 (women), 16-64 (men).

55. Using National Insurance records.

56. Similar figures for 1982 appear in the General Household Survey 1982 (OPCS, 1984a, Ch.6).

57. Male part-time working is associated with having reached pensionable age: in 1977, 58% of male, but only 7% of married and 31% of non-married female part-timers were over 65 and 60 respectively (Robertson and Briggs, 1979, p.673).

58. A recent study of employers' recruitment practices show that graduates are commonly selected partly on the basis of high A-level grades and attendance at 'prestige' universities, factors not necessarily having any relevance to the candidate's ability to do the job (Times Higher Education Supplement, 14/9/84, p.12).

59. In the writer's opinion, women with younger children will increasingly be competing for available 'professional' jobs against highly qualified 'early retired' persons with good 'contacts' providing access to such employment.

60. Discussion with EOC staff revealed that female teachers and university lecturers have problems over placement on incremental pay scales: such placement is exceptionally difficult to challenge since such incremental scales are held to be inherently 'non-discriminatory'.

61. Married women used to be under-represented in the official statistics because they neither drew unemployment or supplementary benefits nor registered as unemployed. The 'officially' unemployed are now those claiming unemployment or supplementary benefit or National Insurance credits (Employment Gazette (1984) Vol.92, No.8, p.S55)

62. In which case the contributions are paid into SERPS.

63. Of which a good example is the universities' Premature Retirement Compensation Scheme.

64. Respondents were classified 'unemployed' if looking for work, waiting to take up a job, or prevented from looking for work by temporary indisposition. However, among the 'economically inactive' (mainly for domestic reasons) there proved to be a group of active job-seekers and women waiting to take up a job. These had not, initially, defined themselves as 'unemployed', so were eventually classified as 'non-employed' job seekers (Martin and Roberts, 1984, pp.79-85). Unemployed men do not normally define themselves as househusbands, the category into which older 'non-employed' women typically would have placed themselves. Younger women tend to speak of 'full-time motherhood' as an occupation.

65. It is still unusual and often impractical, not to say, in some cases, undesirable, for two members of a settled partnership to become domiciled in separate locations. However, from the writer's observation, there is a small trend, fostered by the difficulties of the labour market, for highly qualified couples, especially if childless or in middle age, to 'commute' between two separate job locations.

66. For discussions of women and the labour market see Amsden (1980); Barron and Norris (1976); Breughel (1983); and West (1982).

67. For that small minority who return to paid work promptly after childbirth and are in an occupational pensions scheme, there is no automatic payment of employers' pension contributions during maternity leave (see OPB, 1976, Ch.11; Wood, 1981, p.167).

Part V

Survivors' and Dependants' Benefits

'The only call that could be made upon the Civil List is in the event of Diana being widowed before Charles inherits the throne. In that event she would be allotted a pension of £60,000 a year'

(Junor, 1982, p.216)

'Marriage is really what has sometimes been called a lottery: and whoever is in a state of mind to calculate chances calmly and value them correctly is not at all likely to purchase a ticket'

(John Stuart Mill to Harriet Taylor, 1832)

Part V

Survivors' and Dependants' Benefits

Introduction

Part V addresses occupational pension provision with reference to survivors' benefits. Ch.8 discusses widows' benefits and other provision for female survivors of scheme members. Such benefits originated in a context which presumed the obligation of men to provide for female financial dependants - wives, unmarried daughters and other female relatives.

Trends towards serial marriage and stable cohabitation as well as the increased participation of women, notably wives, in economic activity are posing challenges to existing policy and practice in occupational pension schemes. Existing rules of entitlement to occupational survivors' benefits are being questioned as are those notions of dependency which bear a crucial relationship to the rules of entitlement.

Furthermore, a steep rise in divorce rates, along with major and recent changes in the law of divorce since 1969 are raising issues in relation to loss of prospective widows' benefits on divorce. Ch. 9 examines these issues.

Chapter 8

Widows' and Survivors' Pensions and Benefits

This chapter outlines the development of occupational widows' and survivors' benefits, with reference to relevant statutory provision. The occupational provision discussed includes forms of benefit potentially available to 'surviving' relatives and cohabitees. Finally, widows' and survivors' benefits are reviewed in the light of current trends towards serial marriage and stable cohabitation.

I Provision for widows to 1939

The relief of financial need among widows was a focus for charitable effort in 19th century Britain, widows constituting a major Poor Law client group. Treble (1983, pp.95-102) has documented the circumstances of young and elderly working-class widows in urban Britain from 1830-1914 as typically, 'pushed close to, or below, the primary poverty line' (ibid., p.96). Such women tended to lack basic occupational skills and were employed, characteristically, in 'charing, washing and those workshop and home-based trades which were associated with the sweated system' (ibid., p.98) with seasonal or casual work more easily obtainable than regular employment.

A widow's 'best investment' was children of an age to support her by their own employment (ibid., p.99). The low wages usually commanded by widows forced on to the labour market are deemed by Treble to be 'in part the product of those social assumptions which were accepted by middle-class and working-class men as justification for the low levels of earnings accruing to unskilled female labour' - in particular the equation of the female wage with a level of earnings designed 'solely for the upkeep of the single girl, living at home,

until her marriage, thereby conveniently overlooking the crises of widowhood ----' (ibid.).

Small wonder, then, that widows were a class which had recourse to the Poor Law. Crowther (1983, pp.91-92) shows how widows, a clearly identifiable needy group, were increasingly granted out-relief in the early years of the reformed poor law system. However, as workhouses became 'employers of labour on a large scale' widowed female paupers began to be required to undertake domestic service in these institutions, as a condition of receiving out-relief (ibid., p.141). Thane (1978, p.37) states that at mid-century, widows were sometimes denied out-relief on the grounds that 'if widows and deserted wives could assume that they had a right to out-relief, the father's sense of responsibility to his family would be undermined.' Treble (1983, p.97) presents evidence to support his contention that there was a 'hardening' of attitudes among Poor Law guardians in the 1870s and 1880s in the belief that widows should enter the labour market (ibid., p.98). Stedman-Jones (1971, p.275) notes out-relief for London widows in the early 1870s being replaced by admission of children into pauper schools as the sole form of relief on offer.

Widows were a 'target group' for the Charity Organisation Society, founded 1869, in its efforts to identify suitable 'deserving cases' for charitable aid. Crowther (1983, pp.242-243) records that a number of late 19th century boards of guardians were virtually 'taken over' by the COS, resulting in decisions to stop out-relief where the home circumstances of widows were deemed 'insanitary' or 'immoral'. In 1888, the Central Board was recommending a policy of taking children into the workhouse as an alternative to out-relief for widowed mothers but 'They frequently left the mother with one child to support, without relief, lest she forget her dual role' (Thane, 1978, p.39). The COS was a firm believer in 'self-sufficiency', though prepared to offer

'abundant charity' for 'exceptional cases' (Annual Report of a District Committee 1876 in Mowat, 1961, p.26).(1)

The situation of working-class widows in relation to poor law and charitable aid plus their problems in obtaining employment, may well help explain the existence of special charities for the middle classes, including widows. Owen (1965, p.173) notes the existence by 1861 of well established 'pension funds --- for the benefit of persons of standing who had been the victims of untoward circumstances' and argues that the Victorians thought such charities 'especially worthy, for they served a class of unfortunates who, critics of charitable practice charged, were often neglected while benevolence was showered on the more clamant but less worthy destitute'. Such provisions were as much provident funds as charities and were often linked to particular trades or professions (ibid.).(2)

Such charitable provision was, for obvious reasons, the preferred alternative to poor law relief for indigent members of the salaried classes who were unable or unwilling to obtain financial help from their family and friends in the absence of earnings, or in the case of dependent women, if without access to support derived from a 'family wage'. The existence of 'occupational' charitable funds is of interest in the light of the development of employers' pension provision. Given the available financial alternatives for needy relatives of deceased breadwinners, it seems likely that the growth of formal provision for widows and survivors, especially on death in service under occupational pension scheme arrangements, would have been an attractive development for that small minority of employees who became eligible for such provision.(3)

The emergence of widows' pension provision in the private occupational sector was one result of the benevolent paternalism practised by employers

who were, in some instances, motivated by religious principles (see Ch. 1). It was open to an employer to 'provide for' the widow and dependants of an employee who died in service on an 'ex-gratia' basis. Especially where such provision became formalised, the promise of a widow's pension payable on death in service and/or retirement (plus any provision for unmarried dependants, especially children or unmarried adult daughters), was a tangible 'reward' for faithful service, thus relieving the employee of understandable anxiety with regard to financial provision for dependants should he die before them.

Owen (1935, p.87) noted the existence in the thirties of elective 'joint pensions' paid at a lower rate on the joint lives of retired employees and their wives and other schemes which guaranteed to pay a retirement pension for a fixed number of years, even if the employee died during the period in question (ibid., p.87). 'It is sometimes the case that widows' pensions and other benefits are associated with employees' pension schemes, either conditionally or as a free provision by the employer.' The more recent schemes were insurance-based and provided a lump sum on death in service (ibid., p.88). By this time, employers might provide for the death of a male employee in service and/or death in retirement.

The Ministry of Labour survey of private occupational pensions undertaken in 1936 made no mention of death in service benefits but included information on retirement benefits for widows and dependants. It was noted that many schemes offered options to male scheme members on retirement, the most common being a reduced pension payable on the joint lives of husband and wife until the survivor's death. Alternatively a retired scheme member could opt to receive a pension of a larger amount for a certain number of years and a correspondingly smaller pension for the rest of his life. Other options included commuting

the employers' contributions into cash or commuting the whole pension into cash, with the employer's permission. Many schemes guaranteed payment of the pension for a number of years, regardless as to whether the pensioner himself survived: a typical period was five years, though two to seven years was the range. In other cases, payment was guaranteed of a certain amount of retirement pension so that, in the event of the early death of a pensioner, his dependants would get this guaranteed value, less the amount already paid during the pensioner's retired life-time (Ministry of Labour, 1938, p.174).

Thus, up to World War II, 'widow's pensions' as such seem to have been uncommon in private sector schemes. Provision for survivors came in the form of 'options' enabling a 'male provider' to judge what would best suit his particular circumstances. An actual widow's pension for retirement appears typically to have been generated by the scheme member himself foregoing some of his personal pension in order to provide against the contingency of his wife surviving him. A lump sum enabled provision to be made for a widow and/or other survivors, such as children, unmarried daughters or other dependent female relatives such as a mother or unmarried sister.

It may be recalled from Ch. 1 that the Civil Service pension scheme provided a model copied elsewhere. However, death benefits did not feature until the 1909 Superannuation Act which actually reduced the amount of pension available to men on retirement in order to provide a lump sum in addition (Rhodes, 1965, p.51). Under the 1935 Superannuation Act male civil servants were enabled to allocate part of their pensions so as to provide for a widow in retirement (ibid., p.79): this was, however, an option. The first public sector occupation to introduce widows' pensions was the police in 1918, with a national scheme being introduced in 1921 (ibid., p.61). From the Teachers' (Superannuation) Act 1937 came an option whereby a married male teacher could request

that two-thirds of the lump sum payable to him on retirement be deferred and 'kept by the state as a single premium to meet the cost of provision for his wife should he predecease her' (Gosden, 1972, p.148).

Widows' pensions as such do not appear to have been characteristic of public sector occupational pension provision, the police excepted. Rhodes (1965, p.62) comments that 'What was originally designed as a special award for special services has in the course of time come to be regarded as a normal part of a public sector pension scheme'. This development did not however take place until after World War II. Before that time in the public sector, as in the private, provision for widows and survivors, if available at all, was the product of an 'option' exercised by a male 'breadwinner'. It was for him to decide, in the light of his own personal circumstances, whether to avail himself of such options as were available to replace the 'family income' which he generated. His wife and/or dependants were reliant on his exercising a suitable and responsible choice.

Statutory widows' pensions had been part of Lloyd George's health insurance plan in 1910, but this move was defeated by the 'insurance industry' (Gilbert, 1966, pp.298-300, 326-340). Beveridge argued for widows' and orphans' pensions in 1924 (Gilbert, 1970, p.240). The plight of widows was brought into prominence by the high loss of life in the first World War. The Widows', Orphans' and Old Age Contributory Pensions Act (1925) introduced insurance-based widows' pensions, this provision being a main motive for the entire scheme (Wilson and Mackay, 1941, pp.71 and 85; Gilbert, 1970, pp.235-254). Men in occupational pension schemes and in better paid employment were excluded. Widows of insured men got a ten-shilling pension for life or until remarriage, regardless of age or parental status. From 1929, additional groups of widows were 'blanketed in' and granted

pensions at 55 (Gilbert, 1970, p.252). As noted in Chapter 2, these provisions prompted single women to campaign for contributory retirement pensions at 55 in the mid-thirties.

The 1937 'Black-coated Workers' Act[4] allowed men to elect to contribute for widows' and orphans' benefits only, subject to age and income qualifications (Wilson and Mackay, 1941, p.176), though men in certain 'excepted' occupations such as teaching were not permitted to participate. It seems likely that this exclusion gave added leverage to employee efforts to secure better provision for survivors of men in such 'excepted' occupations.

Thus by 1939, widows of men in regular employment, earning 'average' salaries or below, or of men with modest independent means, were assured of a small basic pension for life, if their husbands contributed to the scheme as most 'wage-earners' were required to. The widows of men in better paid salaried employment, including that which offered superannuation benefits, were far more likely to be dependent on their husband's actively making provision by the exercise of 'options' or taking out life insurance.[5] The exercise of an 'option' could involve taking a 'gamble' that the husband would die first, so that considerations of age as well as of the financial circumstances of the wife were crucial.[6] Furthermore, where 'lump-sum' benefits were made available, while these sums might be used to provide an income or annuity for a widow, there was no guarantee that the widow would have access to the capital or control over its disposal.[7] The Inheritance (Family Provision) Act 1938 allowed a spouse to contest her deceased husband's will on the grounds that inadequate financial provision had been made, but it was not concerned as to whether a 'reasonable' share had gone to the widow and was easy to evade (Cretney, 1979, p.261).

II Provision since 1939

Before discussing post-war developments attention can usefully be drawn to the Beveridge Report recommendations resulting in legislation characterised by Walley (1973, p.65) as 'one of those rare cases in which a social benefit once provided would be withdrawn as a result of continuing opposition to the principle involved.' Beveridge broke with the philosophy of the 1925 Act which provided pensions for all widows of insured men and argued that, on principle, and presuming full employment, childless widows of 'working age' should engage in full-time paid work and be entitled, if unable to obtain work, to apply for means-tested 'assistance' (Beveridge, 1942, S156, p.65). It was recommended that a short-term widow's benefit should be payable for thirteen weeks plus a 'training benefit' designed to enable a widow to re-enter the labour force if possible (ibid., S153(c), p.4).(8)

Beveridge believed that 'Permanent provision for widowhood as such --- is a matter for voluntary insurance by the husband' (ibid., S156, p.65), an argument echoed in his discussion of the possible need for a cash grant to widows on the death of their husbands, a provision which he felt should be made through private insurance (ibid., S154, p.65). The recommendation to abandon the 'unconditional' 1925 widow's pension was apparently supported by nearly all such witnesses as commented upon it, though anxiety was expressed on behalf of those women who were widowed or whose children ceased to be dependent 'when they were advanced in age, would have difficulty in finding, or being trained for, new employment' (ibid., S156, p.65). Certainly, had the proposals been enacted in this form, they would have made the 'Beveridge housewife', conceived as not engaging in gainful employment during marriage, especially dependent upon her husband's having 'made provision' for her in the event of widowhood in later life. Women

whose husbands were in occupational pension schemes providing survivors' pensions would have been notably advantaged. Beveridge did not in fact relate the existence of superannuation schemes to his proposals for widows in the new NI scheme.

In reality, post-war social insurance legislation gave childless widows over 50 who had been married for at least ten years[9] a 'permanent' widow's pension (ceasing on cohabitation or re-marriage) which at 60, turned into a retirement pension (George, 1968, p.139). Until 1956, when the age of entitlement was raised to 50, widowed mothers who were over 40 when their children ceased to be dependent, became entitled to a NI widow's pension: 'the differential age-limit between the two sub-groups created gross inequities in some cases' (ibid., p.137).

The post-war period saw developments in the provision of occupational widows' benefits. Pensions for widows and dependants were introduced into the Civil Service in 1949. Around half the cost was met by the individual civil servants through reduction of the retirement lump sum or payment of special contributions (Rhodes, 1965, p.52). Local government officers were granted widows' pensions in 1953, lump sum death benefit payments being introduced into the scheme for this purpose. Married men were required to give up two-thirds of these lump sums on retirement so as to 'meet the prospective cost of widows' pensions' (ibid., pp.57-58). Police widows' pensions were improved in 1956 (ibid., pp.116-117).

The first survey of occupational pensions undertaken by the Government Actuary in 1957 showed a high rate of widows' pension provision in the public sector, including nationalised industries, it being estimated

that 83% of schemes gave an annuity to widows (GA, 1958, Appendix 1, S11-12, p.21) with five out of six men being covered (ibid., p.12), whether death occurred in service or in retirement. The rest paid a lump sum on death in service or 'unexpired instalments of guaranteed annuity, etc.' on death after retirement (ibid., p.21). In the private sector, while figures were not given on the percentage of employees covered, 23% of 'non-insured' and no 'insured' schemes gave a widow's pension on death in service, though payment of a lump sum was common (ibid., S11, p.21). Widows' annuities paid on death in retirement were uncommon - 12% of non-insured and 2% of insured schemes paid them. 21% of insured and 33% of non-insured schemes gave no benefits on death in retirement. 'Allocation' of part of the retirement pension so as to provide for a widow was an option permitted to husbands in 73% of public sector, 50% of non-insured and 88% of insured schemes, with wide variation as to whether this choice could be made 'at or near normal retiring age' or 'at some other time' (ibid., S18, p.24). It was quite usual for private pension schemes to permit conversion of the retirement pension into a lump sum payable on retirement, rather than a widow's pension.

Thus, in 1956, occupational pension schemes provided better widows' pensions in the public than in the private sector. Arrangements which relied on the husband exercising an option were common. However, the woman who was 'adequately' provided for in old age via her husband's occupational pension benefits was the exception. The Phillips Committee (H M Treasury, 1954, S71, p.17) noted that nearly half the women of pensionable age were widows, the proportion rising steeply with age, but did not spell out the relationship between female longevity and

poverty in old age. It was the 'poverty' studies of the 1960's which pinpointed the limited extent to which elderly widows were supported by occupational pensions derived from their husbands' employment. In 1959-60 a miniscule proportion of widows in Britain appeared to be living on an occupational widows' pension, according to a national survey (Cole and Utting, 1962, p.57). Most were dependent on state benefits, including National Assistance. Townsend and Wedderburn (1965) in a national study of old people in Britain found that only 9% of widows had occupational pensions. Their findings gave 'little support --- for the view that private superannuation arrangements are taking over from the state' since the majority of people, widows included, had no pensions or, if they had them, had them in exceedingly small amounts (ibid., p.102).

The second GA's survey of 1963 indicated that widows' pensions continued to be a far more common provision in the public than the private occupational sector (G.A., 1966, S98, p.41). The small proportion of private sector scheme members who were covered for widows' pension provision were most commonly granted continuing payment of their retirement pension for a fixed number of years (ibid., S99, p.42). However 90% of private sector schemes paid lump sums to widows on death in service, as was the case in the public sector where widows' pensions were a common feature on death in service or retirement (ibid., S100, p.42). Private sector schemes sometimes paid 'balance payments' i.e. lump sums to widows whose husbands had died shortly after retirement (ibid., S102, p.43).

By the mid-sixties, the Civil Service, local government, teachers, National Health Service and most nationalised industry pension schemes

paid out a lump sum to an employee's widow on death in service. Most paid a widow's pension of about one-third of the husband's salary on death in service or retirement, sometimes with a requirement as to minimum length of completed service. The major exceptions were the Government Superannuation Scheme for teachers and British Rail[10] (Rhodes, 1965, Appendix 4, pp.280-285). Rhodes noted the tendency of private sector pension schemes to provide lump sums rather than widows' pensions, but found some large private occupational pension schemes which provided widows' pensions on a scale more generous than the public sector (ibid., p.132).

Teachers were in fact the last public sector group to get widows' pensions, though the NUT had made representations since 1949 for a scheme to be set up similar to the Civil Service provision. Cost was the stumbling block, with failure to agree as to how the costs could be shared between central and local government and the employee. In 1956 a scheme was established, paid for by the teachers themselves, which permitted a widow's pension to be paid on death in service as well as in retirement, by surrendering part of the lump sum payable (Gosden, 1972, pp.148-149). It took until 1966 for a widow's pension as such to be provided on a basis which permitted existing married male teachers to 'opt in' (ibid.).

The inclusion of the teaching profession brought 90% of public sector male employees in occupational schemes within the orbit of widows' pension provision on death in service or retirement by 1967. However only 10% of private schemes recorded in the third GA's survey provided such a benefit, covering around one-third of male scheme members and suggesting that 'large' schemes were more likely to be

providers (G.A., 1968, S73-74, p.27). 70% of private scheme members could 'allocate' i.e. forego part of his pension in favour of a widow or dependant, on or shortly before retirement: the same facility was generally available in the public sector, though little used. Private sector schemes relied heavily on lump sum payments for provision to survivors on death in service, some schemes paying up to four times annual salary, the limit permitted under Inland Revenue rules (ibid., S76-77, p.27).

In the late sixties, widows' pension provision began to increase in the private sector. By 1971, in respect of death in service benefits, while the majority of private sector schemes still provided only lump sum payments, the larger schemes were more typically providing widows' pensions, especially those schemes with both manual and non-manual members (GA, 1972, S12.3, pp.40-41). Some private sector schemes were by now providing widows' pensions which did not cease on re-marriage (ibid.). This type of provision is in line with the notion of an occupational pension as 'deferred earnings' in the form of a continuing 'family wage' payable to the member's widow regardless of her future marital status. Lump sums paid on death in service were commonly 1-1½ times annual salary, including return of contributions (ibid., S12.6, p.42).

Table 24

Death in service benefits: 1971, UK.

Type of benefit	Private sector		Both sectors
	Schemes	Male members	Male members
	%	%	%
Widow's pension no lump sum	5	15	14
Widow's pension + lump sum	6	24	42
Lump sum: no widow's pension	82	55	39
Neither	7	6	5
	100	100	100

Source: GA (1972), Table 34, p.40.

Table 25

Widow's pension provision on death in retirement: 1971, UK.

Type of provision	Private sector		Both sectors
	Schemes	male members	Male members
	%	%	%
Unconditional widow's pension	10	34	51
Widow's pension by allocation	76	55	41
No provision	14	11	8
	100	100	100

Source: GA (1972), Table 38, p.43.

With regard to pension provision for widows on death in retirement, the majority of private sector schemes still relied heavily on the exercise of an 'allocation option'. 'Unconditional' benefits were provided by the larger schemes (ibid., S12.7, p.43), whereas the 'overwhelming majority' of public scheme members were so entitled. The 1971 survey found that a high proportion of manual workers' pension schemes made no provision for widows and argued that this could be because the benefits in some schemes were so low that there was little scope for allocation (S12,8, p.43). In the private sector, 39% of staff but only 22% of manuals were eligible to confer 'unconditional' widows' pensions. The advantage which could accrue to the widow of an occuaptional scheme member is illustrated by the fact that in 1971, about half the schemes which gave widows' pensions on death in service based that calculation on the number of years which the husband could have worked had he survived to retire (ibid., S12.14, p.46). This undoubtedly served to improve the financial position of women widowed early with effects extending into their own old age, especially if the benefit was periodically revalued. The impression given by the 1971 GA's survey is that the most generous provision for widows was made by large private sector firms.

Between 1971-1975, by which time the 'pensions debate' was well under way, the total number of men in occupational pension scheme membership entitled to confer a widow's pension on death in service increased from 56% to 74% (GA, 1978, S12.5, p.64).

Table 26

Death in service benefits: 1975: widows' pensions, UK.

percentages

Mode of calculation	Private sector		Public sector		Total
	Non-manual	Manual	Non-manual	Manual	
From salary and service	58	33	99	99	69
Salary only	4	1	-	-	1
Service only	-	1	-	-	-
Miscellaneous*	5	5	-	-	3
No widow's pension	33	59	1	1	26

* allocation options: including conversion of lump sum into widow's pension or surrender of part of personal pension to provide a widow's pension

Source: GA (1978), Table 12.6, p.65.

Thus by 1975, a death-in-service widow's pension was a virtually universal provision in the public sector and one more commonly provided than not for non-manual staff in the private sector. Manual staff widows were the least well provided for. In addition, all public sector employees were entitled to a lump sum benefit on death in service, typically equal to between 1-2 year's salary, while generous lump sums were available to some members of private sector schemes (ibid., Table 12.5, p.64).

Death benefits payable after retirement also improved between 1971-75. A striking change during this period was the increase in the number of private sector widows' pensions available on an unconditional basis rather than by 'allocation' requiring part of the

personal pension to be foregone. Whereas in 1971, 35% of private scheme members received such a benefit, by 1975, 74% did so. The proportion of members able to exercise an 'allocation option' only fell to 19% from 55% and the proportion with no access to widows' pension provision on death after retirement fell to 8% from 18% (ibid., Table 12.11, p.68).

Table 27

Death in retirement benefits: 1975, widows' pensions, UK.

percentages

Mode of calculation	Private sector		Public sector		Total
	Non-manual	Manual	Non-manual	Manual	
From salary and service	80	59	100	99	83
Salary only	1	1	-	-	-
Service only	-	2	-	-	1
Miscellaneous*	16	26	-	-	12
No widows' pension	2	12	-	1	4

* allocation options: including conversion of lump sum into widows' pension or surrender of part of personal pension to provide a widows' pension

Source: GA, (1978), Table 12.3, p.69.

The increased provision of widows' and survivors' benefits during the late 60's and early 70's were related to parallel developments in statutory social insurance provision. Labour's National Superannuation plan of 1957 was designed to improve widows' benefits. It included suggestions for payment to younger widows of a cash

sum equal to half the husband's earnings for the five years before his death. For older widows it was proposed that earnings-related pensions should be paid in proportion to the length of married life (The Labour Party, 1957, pp.45-46). The 1959 Graduated Pension Scheme provided for half a married man's pension to be paid to his widow (Matthewman and Lambert 1984, S12.45, p.273). During the debate on the relevant legislation, the Opposition suggested that contracted-out occupational pension schemes should be required to incorporate widows' pension provision which would make it compulsory for married men to allocate part of their personal pension to their potential widow (H of C, 598, cols. 974-5, 27/1/1959).[11] This was not done.

The 'Crossman' plan of 1969 proposed to improve statutory provision for widows by offering pensions on a sliding age-related scale to women who were widowed, or whose responsibility as widowed mothers for the care of dependant children ended, at 40-49 (DHSS, 1969, S79-80, pp.26-27). Women widowed after 50 would receive an earnings-related widow's pension (ibid., S78, p.26). A widow over 60 would be allowed to use her husband's pension record if better than her own, with credited earnings if the husband died before reaching the age of 65 (ibid., S75, p.26). The White Paper did not discuss widows' pensions in relation to occupational provision: the proposed system of partial contracting-out does not appear to have encompassed compulsory provision of widows' pensions as a requirement for contracting out.

The 'Joseph' plan of 1971 included proposals for a widow's pension at half the husband's rate to be payable to the widows of male members of the State Reserve pension scheme (DHSS, 1971, Table B, p.23). The Conservative proposals were in fact a key influence on the provision of widows' pensions in occupational schemes since it was proposed

that such provision would be a condition of 'contracting-out'. A widow's benefit was to be payable in the form of a pension at half the husband's personal pension rate should he die in retirement, but could be paid in the form of a lump sum should the husband die in service. The widow's pension, if paid, should be periodically revalued in the same manner as the personal pension (ibid., S57, p.17).

Although the Conservative proposals were not enacted, they had a profound influence on occupational widows' pension provision since, as the results of the GA survey of 1975 show, many schemes in the private sector introduced widows' pensions for the first time (GA, 1978, S12.5, p.4). The SSPA 1975 made widows' pension provision a condition of 'contracting-out' by occupational pension schemes.

III Provision for widows since the SSPA 1975[12]

All widows of appropriately insured non-retired men are entitled to a statutory weekly allowance for six months from the date of widowhood. After this, widows over 50 with no dependent children receive a full basic widows' pension, if so entitled, and those widowed between 40-49 receive an abated age-related pension. Childless widows under 40 do not qualify for a state pension. A widow with children under 16 (or 19 if in full-time education or apprenticed) gets a widowed mother's allowance: when she ceases to qualify, her entitlements are age-related, as above.[13] A widowed mother's allowance or widow's pension is increased by the amount of any state earnings-related pension to which the deceased husband's contribution record may entitle his widow (Matthewman and Lambert, 1984, S7.10-7.40, pp.130-43).[14] At 60, a widow's pension turns into a basic retirement pension, payable at a reduced rate if the widow was under 50 at the time she first

received it (ibid., S12.14, pp.261-62).[15] This pension does not cease on re-marriage after the age of 60. Where a woman is widowed after the age of 60 she qualifies, if her husband's insurance record so entitles her, to a single person's retirement benefit plus additional pension derived from her husband's contributions, though she may not claim more than a maximum single person's state additional pension on her own and her husband's state additional contributions combined (ibid., S12.29-12.32, pp.267-68).

Since the 'Castle' pension scheme 'integrates' state and occupational pension provision, the above provisions affect a widow's entitlements under her late husband's occupational pension benefits, which may be derived from more than one pension scheme. Under the terms of the SSPA 1975, all contracted-out occupational pension schemes are required to provide a 'requisite benefit' to the widow of any scheme member over 26 who has completed five years' service,[16] whether he dies in service or during retirement, at a rate equal to not less than half of the member's occupational pension or, (if higher) half the guaranteed minimum pension to which the scheme member was entitled at the time of his death.[17] However, the regulations require such a pension to be paid only for any period during which the widow is entitled to statutory widow's benefits (SSPA 1975, S36, pp.28-29).

If the husband's death occurs in service, a pension scheme is entitled to use part of any lump sum payable so as to purchase an annuity for the widow, without requiring her permission. This practice is followed by a number of schemes (Ward, 1981, p.131). Under Inland Revenue regulations, a widow's pension(s) may not exceed two-thirds of the pension(s) which would have been due to her husband at the time of his death (ibid., p.136). Where the scheme member has retired,

the 'two-thirds' rule likewise applies (ibid., p.145). However, the Inland Revenue rules provide that a 'lump sum' may be paid only as a 'funeral benefit' of modest dimensions[18] or as a capital sum paid in lieu of a continuing husband's personal pension, where the total amount to be paid does not exceed the value of five years' pension payments (ibid.).

By 1979, by which time the 'Castle' plan had become operational, the majority of occupational pension schemes were providing widows with both a pension and a lump sum, the latter payment being restricted to deaths which occurred in service. The GA survey of that year showed that unconditional widows' pensions were offered by public sector schemes whether death occurred in service or after retirement. Only 12% of private sector schemes offered no widow's pension on death in service, these being 'third tier' contracted-in schemes.[19] Most offered pensions derived from the member's salary and service: a very small proportion relied on those methods of allocation which once were standard practice (GA, 1981, Table 11.4, p.62). 96% of schemes provided payment of a lump sum on the death of a married man in service. In the public sector this commonly amounted to between one and one-and-a-half times annual salary: in the private sector, the amount was, typically, more generous at twice annual salary (ibid., p.59). 10% of private sector scheme members were entitled to payment of a sum equal to four times their salary (the permitted maximum under Inland Revenue rules) on death in service: a further 17% were entitled to between three to four years (ibid., Table 11.5, p.63). Only 8% of ('contracted-in') occupational pension schemes in the private sector offered no widow's benefit on death in retirement (ibid., Table 11.11, p.66). As was the case with widow's pensions payable on death in service (ibid.,

Table 11.5, p.63) such benefits payable after retirement in the private sector were based on higher pension fractions per year than was the case in the public sector (ibid., Table 11.13, p.67).

The 1983 survey of the NAPF shows that provision of a widow's pension plus lump sum continued to be near-universal in occupational pension schemes (NAPF, 1983, Table 47, p.29). Just under one-third of private occupational scheme members conferred death-in-service benefits which provided for return of employee contributions in addition, a facility virtually unknown in public sector provision (ibid., p.30). The proportion of schemes in this category had risen from 85% in 1979 to 91% in 1983 (ibid., Table 48, p.31). The survey showed that 26% of 'contracted-in' schemes offered no widows' pensions though only 1% offered no death-in-service benefits at all (ibid., Table 49, p.31). The lump sum payable on death-in-service was particularly generous in respect of 'staff' scheme members, where 52% were at more than three years' salary, including 27% at four years' salary (ibid., Table 53, p.34). The great majority of death-in-service benefits were based on 'enhanced' service (ibid., Table 55, p.35). A recent study of forty death-in-service schemes states that provision for manual workers has improved in recent years (IRRR, 295, p.10, 10/5/83). The most generous scheme noted was that of Marks and Spencer which provides a two-thirds widow's pension plus a 'four times annual salary equivalent' lump sum (ibid.).

By 1983, 97% of schemes gave a widow's pension as of right on death in retirement, with about one-third of the schemes offering, in addition, a facility for a married man to surrender part of his personal pension so as to provide a larger pension for his widow (ibid., p.38). The latter facility accrued to 62% of members of public sector

schemes and 40% of private sector members (ibid.). The majority of schemes offered a half-pension to the widow, though half the members in public sector 'works' schemes conferred a widow's pension at two-thirds of their own level of retirement pension (ibid., Table 59, p.39). Most schemes guaranteed payment of a member's personal pension benefit for a certain period after death in retirement (typically for five years), with over half permitting an overlap with payment of a dependant's pension (ibid., Table 62, p.40). Most paid the guaranteed amount as a lump sum (ibid., Table 63, p.41).

In recent years there have been certain interesting trends towards change in the scheme rules relating to widows' pensions as regarding cohabitation, re-marriage, length of marriage and age differences between husband and wife. It has been usual for public sector schemes to require forfeiture of a widow's pension on cohabitation or re-marriage: private sector schemes did, traditionally, require forfeiture of pension on re-marriage but much less commonly applied a 'cohabitation rule' (OPB, 1976, S10.52-10.54, p.116).

Public sector schemes, typically, require a widow to declare if she is cohabiting, though the more recent nationalised industry schemes apply this rule less frequently. The Civil Service pension scheme discontinues the pension of widows whose husbands retired or died in service before 6/4/1978 on re-marriage or beginning 'to live with a man as his wife'. For widows whose husbands retired or died after that date, the pension is payable only in special circumstances to widows under 60[20] or as a guaranteed minimum pension to widows who re-marry or cohabit after the age of 60 (H M Treasury, 1982, S4.5, p.38). The pension can be restored on 'compassionate grounds' or if the second marriage ends or if the widow ceases to cohabit (ibid.).

In recent years 'cohabitation rules' have virtually disappeared from the private sector [21] and it has become far more common for a widow to be permitted to retain her full occupational widow's pension on re-marriage.

Since the SSPA 1975, the usual practice in the public sector is for a widow's pension 'to be suspended or stopped entirely except for the guaranteed minimum pension' (GA, 1981, S11.6, p.63). In the private sector, 60% of widows' pensions were, by 1979, completely unaffected by re-marriage, with 2% continued at the trustees' discretion. 27% were reduced to the 'guaranteed minimum' or stopped entirely while 4% stopped only if the re-marriage took place before the age of 60 and 2% continued, provided that the member died after retirement (ibid.). The NAPF survey of 1983 found that 67% of all occupational pension schemes continued payment of a widow's pension for life, 7% reviewed it on re-marriage, 6% discontinued it if re-marriage occurred before the widow's 60th birthday and 20% actually discontinued the pension on re-marriage (NAPF, 1983, Table 57, p.37). 72% of schemes continued the pension for life where the widow died in retirement and 17% continued it until re-marriage. For 'retired' widows, the actual percentages affected were 53% subject to no 're-marriage rule' and 39% who actually forfeited their pension (ibid., Table 61, p.40).[22]

Traditionally, occupational pension schemes did not provide widows' benefits in respect of marriages which occurred once a scheme member had left his employment (with preserved benefits) or after retirement. Again, changes have had to be made in 'contracted-out' scheme rules so as to conform with the requirements of the 1975 pensions legislation and provide at least a guaranteed minimum pension in respect of post-employment and 'late' marriages, including those which took place not more than six months before the husband's death (OPB, 1976, S10.61-

10.62, p.118). The GA has noted that between 1975-1979 pension schemes had, typically, changed their policies with regard to the provision of pensions for the widows of men who had married(or re-married) after retirement. Whereas in 1975, around 75% of scheme members were in schemes which did not make such provision, by 1979 only 35% were subject to such rules, those in 'contracted-out' schemes being entitled in any case to confer a widow's pension equal to the 'guaranteed minimum'. However, where the marriage had taken place within six months of the husband's death, nearly one-third of those otherwise eligible were not covered, or were covered only at the trustees' discretion (GA, 1981, S11.15, p.68).

Finally it has been common for schemes to reduce the amount of widows' benefit payable where there is a disparity of age between husband and wife of more than ten years, with the wife being the younger. The OPB noted that schemes varied as to their definition of a significant age disparity, some reducing the pension if the wife was as little as five years' younger and some not unless she was fifteen years' younger. A typical reduction was '2-3% in respect of each year in excess of a stated number of years' (OPB, 1976, S10.65, p.119). It is permissable under the SSPA 1975 so to abate any part of the widow's pension other than the guaranteed minimum pension and such abatement is a continuing practice (Ward, 1981, p.141).

In conclusion, occupational pension provision developed during the nineteenth century as an employer's benefit for white collar workers in 'good' jobs or, less typically, for manual workers in particularly 'good' employment. The death of a male breadwinner was a particular hazard at a time when the male death rate was far higher than it is now.(23) Among the class of men eligible for membership of early

occupational schemes, the 'breadwinner' was expected to earn a family wage sufficient to support his family without his wife (or, indeed, his adult unmarried daughters) entering the labour market. Thus, over time, formal occupational pension provision was developed in such a way as to provide not only a personal retirement pension for the male scheme member, but a replacement income for his family in the event of his death.

Until well into the twentieth century, the typical provision for a widow on 'death in service' was a lump sum, or, on 'death in retirement', a pension provided by an option to forego part of the personal retirement pension or a lump sum representing a 'guaranteed' amount of personal pension. What is striking about occupational provision for widows until well after the second World War is the extent to which this was dependent upon the husband's exercising a responsible and appropriate choice of an option so to provide. Such arrangements underline the somewhat vulnerable position of widows of occupational pension scheme members: they had no entitlement to the 'unconditional' pension paid to the widows of insured men. Such wives, if left inadequately 'provided for' on widowhood, customarily had few skills to offer the labour market beyond those developed in and for the domestic arena. Even between the wars, marriage could effectively 'de-skill' a wife who had been self-supporting before her marriage, due to the existence of formal and informal 'marriage-bars' as well as social custom and an overcrowded labour market.

It was the state which pioneered the notion of the 'unconditional' widow's pension - available to that large proportion of married women who, from the mid-nineteen-twenties, were the wives of 'insured' men.

Had Beveridge succeeded in totally abolishing, rather than diminishing, access to unconditional widows' pensions, then occupational widows' benefits might have developed more rapidly after the second World War. In the event, women over 50, a 'higher risk' group in terms of the likelihood of being widows, were allowed to retain their right to a full universal widow's pension if married to a fully insured husband under the terms of the NI Act 1946. However, the state insurance scheme never has provided the 'lump sum' death benefits which characterise provision in the occupational pension sector.

From the time of the 'pensions debate', the state has set standards for the provision of widows' pensions, finally making such provision a condition of 'contracting-out'. There is no doubt that the widows of men with good occupational pension scheme benefits are at a financial advantage as compared with women with entitlement only to statutory benefits.(24) However, there is by now a considerable amount of inequity of treatment with regard to the application of cohabitation or re-marriage rules. A 'public sector' widow is supposed to declare if she is 'living with a man as his wife', while a private sector widow is usually at liberty to 'cohabit' if she so wishes. Private sector pensions are increasingly being defined as 'deferred earnings' of a deceased husband to which a widow should have lifelong entitlement: public sector pensions are more commonly 'lost' on re-marriage. It can only be assumed that these rules actually influence the conduct and outcome of relationships with men established by 'occupational' widows.(25) They are predicated on the notion of female dependency in marriage and marriage-like relationships. Yet these rules are strangely inconsistent. While the 'traditional division of labour' makes it less likely that a woman will have been able to generate a

good income for herself in old age should she have married, 'death bed' marriages (made no more than six months before the death of the husband), are penalised. Such a marriage may well be a prudent financial step for a widow and not least, if she is permitted to retain the pension from her first husband. Though as Ward (1981, p.148) remarks 'there are better ways of making one's fortune than by marrying an elderly occupational pensioner'.

IV Other female survivors' benefits

Some occupational pension schemes make provision for 'survivors' other than widows and children, though it is not uncommon for such provision to be limited to 'female' dependants.[26] The target beneficiaries before the second World War would have been financially dependent relatives such as indigent widowed mothers or unmarried sisters or daughters who were being supported by the deceased male scheme member. At this time it was customary for unmarried women to 'keep house' for relatives on a full-time basis, i.e. for a widowed brother. Unmarried daughters also quite commonly cared on a full-time basis for elderly parents. Such women, styled 'domestic spinsters' by William Beveridge (Harris, 1977, p.403) were sometimes financially supported by a male relative. In the past and present adult handicapped and disabled relatives have been so supported, despite or in addition to provision of statutory benefits.

The OPB found that while there was no 'universal practice' it was quite common for schemes to offer 'options' for allocation or cash commutation of pension benefits or to allow nomination of a dependant for receipt of a lump sum death benefit, at the discretion of the

pension scheme trustees (OPB, 1976, S10.48, p.115). The Board recommended that such options should be made more widely available (ibid., S10.51, p.116). However, the existence of a legal widow does, in many schemes, preclude the payment of a lump sum or assignment of any part of a widow's pension, notwithstanding the personal wishes of the male scheme member and his potential widow.

Table 28

Provision for dependants other than spouses*: death in service, 1979, UK.

	% of membership eligible		
Dependant's pension	Private sector	Public sector	Total
Trustees' discretion if no spouse's pension payable	35%	-	18%
In all cases if no spouse's pension	10%	39%	24%
Other	4%	7%	5%
None	51%	54%	53%

* if a widower's pension payable on the same basis as widow's

Source: GA (1981), Table 11.7, p.64.

Thus, in 1979, just under half the members of occupational pension schemes made provision for dependants other than spouses. Such arrangements were, typically, dependent on the presence, or otherwise, of a legal widow, in the case of married male scheme members. Schemes vary as to the nature of the dependency to be covered. The 1979 survey included arrangements which could cover children, though children were mainly provided for by separate arrangements (GA, 1981, S11.81, p.64).

As noted in Chapter 6, S2, issues arise around the interpretation of the term 'adult dependant'.[27] Typically the term may cover a close relative who was financially dependent upon the scheme member at the time of his death, an ex-wife who was receiving financial support, or, increasingly, a 'cohabitee'. These provisions for 'dependants' in occupational pension schemes constitute a little-known but nonetheless significant form of income maintenance provision derived from employment. Its true extent is unknown.

'Dependency' provisions are currently a very live issue, since by this means, usually at the discretion of the trustees, provision can be made for ex-wives (see Ch.9) and cohabitees. Some schemes permit assignment of part of a personal pension to an ex-wife by member's allocation, though in all circumstances, a legal widow is entitled to her guaranteed minimum pension.

Cohabitation also has considerable implications for the providers of occupational pension benefits. It may or may not be a prelude to marriage, it may or may not involve de facto 'financial dependency' and the couple concerned may or may not consider themselves to be living in a 'marriage-like' relationship. Nonetheless, cohabitation is now such an extensive practice that the adult 'female survivor' whose claim to occupational death benefits comes up for consideration by pension scheme trustees is now more likely to be a 'cohabitee' than the traditional widowed mother or 'domestic spinster'.

Cohabitation is significant in the context of occupational pension provision in terms of its financial implications. A proportion of cohabitations are indubitably 'marriage-like' and, especially where children are involved, display those typical features of the 'domestic

division of labour' which characterise a high proportion of legal marriages. Especially since the 1970's, there has been a marked trend towards legal marriage being preceded by a period of cohabitation (OPCS, 1981, p.129). The GHS 1982 found that the propensity to cohabit was highest, at 67% between 1979-81, among couples with at least one previously-married partner (OPCS, 1984, p.29).

Brown and Kiernan analysed data from the GHS 1979, noting that cohabitation appeared to be 'largely a childless period, with most childbearing occurring with the framework of legal marriage', but noted that among the single women who regarded themselves as 'married', half were, in fact, mothers (Brown and Kiernan, 1981, p.6). 44% of the 'married' single women were not in paid work, with a high proportion (70%) having partners in manual work. The 'living together' single women, by contrast, were almost without exception childless, better educated and less likely (at 57%) to have a partner in manual work (ibid.). 25% of the 'married' cohabitees had been together for more than five years and 36% for more than two (ibid., Table 6, p.7).

These findings confirm the existence of partnerships which are long-lasting, which include children and where the female partner is not economically active. Where an unmarried male member of an occupational pension scheme (or his wife) feel that the relationship is 'marriage-like', they may compare the treatment of widows of occupational pension scheme members with that of cohabitees. Even where the relationship is one of non-marital 'living together', if viewing occupational pension benefits as 'deferred earnings', the situation invites comparison between the ability of a 'cohabitee' to pass on those deferred earnings to the destination of his choice as compared with the situation of the married man who may be entitled, or indeed, required, to pass them on to his lawful widow. The situation can be considerably compli-

cated where a male member of a scheme dies in service when cohabiting, but leaves a 'lawful' widow.(28)

Freeman and Lyon (1983, p.71) state that there is much of legal interest as regards the position of cohabitees and occupational pension benefits. A female cohabitee is not entitled to any form of statutory widow's benefit (ibid., p.78). The recognition of cohabitation as a status is of current legal interest.(29) Freeman and Lyon note that cohabitees may benefit from occupational pension provision, especially where the scheme rules permit nomination of 'dependants' entitled to receive a pension should the scheme member predecease his partner in retirement. Such arrangements rest on 'proof of dependence' and thus on 'the exercise of administrative discretion'. However, a cohabitant's claim to death benefits of any type 'may be defeated by a prior or subsequent allocation of the portion, or, alternatively by the partner's later marriage' (ibid., p.79).

Occupational pension scheme provision for widows originated as a response to the financial hardship which could be experienced by financially dependent wives (and children) in families wholly or largely reliant for income on the earnings of a 'male breadwinner'. As Rossetenstein (1980, p.324) observes, 'Traditionally, occupational pension schemes - have been structured around a legal family' with certain benefits payable to a widow by virtue of her marital status. Among the assumptions upon which the early pension schemes were based was that of marriage as a life-long relationship.

Both cohabitation and serial marriage are presenting challenges to the providers of occupational pension benefits. Rossetenstein, in discussing the operation of scheme rules and trustee discretion,

makes a useful distinction between 'employer dominant' schemes and those operating on 'members' choice'. In the first case, as with public sector schemes, the employer exercises a good deal of control, regarding the benefits as 'employer assets': 'members' choice' schemes, by contrast, regard the benefits as the assets or entitlements of the employee (ibid., p.324). Thus public sector schemes tend to be less responsive to members' needs, to uphold the status of marriage and retain a traditional position of 'moral hostility' towards cohabitees.(30) Inertia also plays its part in the retention of rules and practices which fail to respond to the existence of alternative family forms (ibid., pp.328-329).

Rossetstein raises a central question as to the extent to which occupational survivors' benefits in relation to cohabitees should be conceptualised as deferred earnings and the extent to which they are more analogous to statutory income maintenance benefits given on an assumption of need (ibid., p.330). He argues that 'legal history shows that there is a marked tendency to extend recognition to de-facto unions if they approximate the characteristics of marriage' and that this is more likely to happen as cohabitation becomes more socially acceptable. On this argument he speculates as to whether in the future a legal wife might be required to demonstrate 'need' in order to benefit from her husband's occupational pension benefits - for instance, that she was engaged in child care.

English law does not treat a cohabitee as a 'widow' under statutory pension provision, though survivors' benefits from a deceased male breadwinner's employer's pension scheme may provide a cohabitee with an alternative to means-tested supplementary benefit. A widow over 60 may not receive more than the amount of a single person's basic

retirement pension or state additional pension from her own and her husband's contribution records combined. However, her occupational benefits are an entitlement granted without reference to her own financial circumstances. In the same way, a widow of 'working age' is entitled to her statutory pension, if any, without reference to any occupational benefits which she may be receiving.

With a growing incidence of cohabitation and serial marriage pension trustees and/or adminstrators are increasingly at risk to being faced with the need to exercise discretion with regard to death benefits and allocation options. They are also being required to scrutinise the scheme rules with a possible view to change. The issues lie between the rights of an individual scheme member to dispose of his 'deferred earnings' in the manner which suits his perceived personal circumstances and the need for the providers of benefits to 'protect' the interests of widows and female dependants.

V Some issues

The trend in the sixties and early seventies has been towards the provision of 'unconditional' occupational widows' benefits thus offering husbands less scope for exercising choice regarding the disposal of occupational death benefits. Moves to extend opportunities for female cohabitees or, indeed, former wives, to benefit as 'dependants' might be said to challenge the primacy of the legal widow[31] and confirm the financial dependence of women in and after marriage, or in marriage-like relationships. Conversely they recognise the weaker financial position of most women in such relationships, notably where there have been children of the partnership.

As with the extension of survivors' benefits to widowers, questions can be put as to the positive and negative effects of 'institutionalising' a wider range of dependencies to include cohabitees and ex-wives. Such provision might be held to inhibit moves in the direction of women themselves generating a replacement income for old age. Some married women with a substantial employment record in the 'primary' labour market are now in a position to generate substantial personal pension entitlements of their own. Indeed, there is beginning to come into existence a small 'financial elite' of married women who, if widowed, will in retirement enjoy substantial widow's benefits in addition to their own pensions. Other women may choose to cohabit precisely because their own earning power makes them independent of financial support from a male breadwinner.

Such developments strengthen the case for 'disaggregation' in occupational pension provision, whereby men and women would become entitled to personal benefits only, with power to require disposal of any lump sum death benefits according to their personal wishes. However, as this study makes clear, the majority of women do not as yet generate a sufficient income for old age through their own earnings. They rely on entitlement to survivors' benefits should their male breadwinner predecease them. Thus, the women who loses her right to potential survivor's benefits on divorce can find herself in a particularly parlous financial state in old age, an issue addressed by Ch.9.

Chapter 9

Loss of Prospective Rights to Occupational Pension Scheme Benefits on Divorce under English Law

While occupational pension schemes have greatly improved their benefits in recent years, including widows' provision, concurrent changes in divorce legislation have put all wives potentially 'at risk' to divorce. Divorce rates have increased. Thus, questions arise as to compensation for loss of prospective rights on divorce.

I The Divorce Reform Act 1969 and subsequent legislation

On divorce, an ex-wife loses her right to any prospective occupational widow's pension or other benefits derived from her ex-husband's employment. As shown in Chapter 8, such benefits can be substantial. Loss of pension rights featured, as part of a larger concern with the financial consequence of divorce, in the debates leading up to the Divorce Reform Act 1969 and subsequent legislation.(32)

Prior to the 1969 Act, divorce law was based on the 'matrimonial offence' principle (LC, 1980, S9-13, pp.6-9), which was then abandoned in favour of the principle of 'irretrievable breakdown of marriage' (ibid., S14-22). The new legislation put all married persons 'at risk' to divorce in the sense that, as will be seen, the 'five-year rule' means that if the parties are held to have been separated for at least five years, a divorce can be granted (even against the wishes of one of the partners), provided that the financial arrangements satisfy the court.

In contemplation of such an outcome of reformed divorce legislation based on the irretrievable breakdown of marriage, concern was expressed

in the middle and late 1960s as to the likely financial position of ex-wives. A matter which merited particular attention was the loss of prospective widows' pension benefits by women divorced in later life. In 1966, a study group appointed on behalf of the Anglican church to examine possible divorce law reform (Archbishop of Canterbury's Group, 1966) drew attention to the fact that 'divorce is apt to affect a wife's economic position more adversely than a husband's', and recommended that on divorce 'the court should be empowered to award a wife, in appropriate circumstances, all or part of any pension and insurance benefits she would have enjoyed had the marriage not broken down...' (ibid., pp.72-73).

The Law Commission, in 1967, as part of a wide-ranging review of the financial consequences of possible divorce law reform, set out a detailed critique of the issues arising from loss of prospective pension rights (LC 1967, S182-210, pp.79-91) stating that in contemplating reform,

> 'There is no doubt that one matter on which there is strong public feeling is the loss of potential widow's pension that a wife may suffer if she is divorced by or divorces her husband. She may have been married for twenty years or more during which her husband has been a member of a superannuation scheme under which the wife, if she survives him, would be entitled to a pension or a lump sum, or if not entitled, would be the likely recipient of benefits either at the discretion of the trustees or as the result of a nomination by the husband. On the dissolution of the marriage, her prospective rights or expectations are normally destroyed, since she can no longer become his widow.' (Ibid., S182, p.79)(33)

It was emphasised that such loss of prospective pension rights were, at the time of writing, regarded as a hardship, notwithstanding that an 'innocent wife' could then not be divorced against her will. It

was pointed out that such loss might be regarded as an even greater hardship if the courts were to become empowered to 'dissolve a marriage against the wishes of a wife who has not committed any matrimonial offence' (ibid.). Furthermore, it was noted that, at the time of writing, no occupational pension scheme appeared to attempt 'to make any provision for safeguarding the position of the divorced wife as such' (ibid.).

With divorce law reform legislation before Parliament in the late 1960's, issues were considered relating to the financial consequences of divorce granted on 'irretrievable breakdown' to a wife who, under previous legislation, would have been deemed an 'innocent party', who could block any divorce action on her husband's part. These issues were emphasised in Parliamentary debates and in the surrounding public discussion (see Lee, 1974). Media comment pointed out that 'most of the criticism was concerned with the possible financial hardship that a woman divorced against her will may well suffer, especially if she loses her pension rights on her ex-husband's death' (ibid., p.141). However, despite opposition, a reformed divorce law was enacted.

Since January 1971, divorce decrees have been granted solely on the grounds of 'irretrievable breakdown of marriage'.[34] Of particular relevance in the context of loss of prospective widow's pension rights, is the provision whereby either spouse may petition for a divorce on the grounds that the partners have been separated for a continuous perid of five years. Such a petition may be opposed by the non-petitioning party on the grounds that a divorce would cause financial hardship of sufficient severity to justify dismissal of the petition. In particular, section 5 of the Matrimonial Causes Act 1973, in allowing

opposition to the grant of a divorce decree under the 'five-year' rule 'on the grounds that the dissolution of the marriage will result in grave financial or other hardship to him and that it would in all the circumstances be wrong to dissolve the marriage', defines hardship to 'include the loss of the chance of acquiring any benefit which the respondent might acquire if the marriage were not dissolved'. As Cretney comments, this is a defence to the petition of 'last resort' and 'the defence, if successful will thus, contrary to the general policy of the Act, keep in existence an "empty legal shell"'.(35) This is, in fact, a mandatory defence for wives wishing to oppose their husband's petition for divorce on grounds of the 'grave financial hardship' implicit in loss of their prospective pension rights.

Thus, divorce reform has put wives 'at risk' to divorce but given them the possibility of a 'saving clause' wherewith to argue that their individual circumstances are such that loss of prospective occupational pension rights does constitute sufficient 'hardship' for rejection of their husband's divorce petition. Before proceeding to detailed discussion of the problems which arise with regard to loss of occupational pension rights on divorce, and suggested solutions, it may be useful to consider recent trends in divorce.

II Recent trends in divorce

During the 1970's there was a large increase in the number of decrees absolute granted in the UK. There was a steep rise in both petitions and decrees in the years immediately following divorce law reform, followed by a steady growth, which peaked in 1978 and levelled off up to 1981, the increase being in petitions brought by wives.

Table 29

Divorce: UK.

	1961	1966	1971	1976	1978	1980	1981	1982	1983
Divorces granted (thousands)									
Petitions filed: husband	14	18	44	43	47	49	47	47	45
wife	18	28	67	101	116	123	123	128	124
	32	47	111	145	164	172	170	174	169
Decree nisi	27	41	89	132	152	151	148	149	150
Decree absolute	25	39	74	127	144	148	146	147	147
Persons divorcing per thousand married people	2.1	3.2	6.0	10.1	11.6	12.0	11.8	12.0	12.2
Percentage of divorces where one or both partners married previously (E and W)	9.3	8.7	8.8	11.6	13.5	15.7	17.1	18.5	20.0

Source: Table 2.15 Social Trends 13 (1982) in Family Policy Studies Centre, 1983, p.5.

Table 2.15 Social Trends (CSO, 1984, p.38).

The Demographic Review 1977 (OPCS, 1978a, Table 4.9, p.59) recorded a 400% increase in the divorce rate in GB over the previous twenty years. 'An increasing proportion of divorces are occurring at shorter marriage durations - especially for those who marry young' (CSO, 1979, p.85). Longer term trends indicate that one in three marriages is 'at risk' (Family Policy Studies Centre, 1983, p.6). Divorce rates peak between the ages of 25-29 where nearly one in thirty couples divorces, six times the rate for couples over 50 (ibid., p.7). Over half the divorces which took place in GB in 1981 were of marriages less than ten years old (ibid., p.8). Of relevance in the context of loss of prospective

widows' pension rights is that 18.3% were long-standing marriages of at least twenty years' duration. Over seven thousand couples had been married for more than thirty years (ibid., p.8). Over 13% of people involved in divorce were over fifty (ibid., p.9). Loss of prospective pension rights on divorce is a particularly serious consideration for the older long-married wife with little or no retirement pension rights of her own.

There is a major trend towards re-marriage: 34% of all marriages in GB for 1980 involved a re-marriage for one of the partners (ibid., p.12). Re-marriage rates among the divorced population under thirty years of age are high for both sexes, and particularly for women. 'More than one-third of divorced persons under the age of 30 re-marry during a year 'suggesting that around 80% will re-marry within about five years' (OPCS, 1978a, S4.33, p.62). In 1980, for GB, re-marriage rates fell sharply after age 35, with more men than women likely to re-marry at all ages (Family Policy Studies Centre, 1983, p.12). There is thus a growing 'excess' of older divorced women. Some re-marriages end in divorce though the true extent is not known. Divorced persons are more likely to re-divorce than persons of the same age marrying for the first time (ibid., p.13).

No official statistics are gathered which would provide information on re-marriage rates including information on the length of time which elapsed between new and previous marriages (ibid.). However, an attempt has been made to extract such information (Leete and Anthony, 1979, pp.5-11) by means of a 'pseudo-random sample of 1,000 divorces granted in 1978'. This year was chosen as being the earliest likely to be representative of current divorce and subsequent re-marriage patterns following the 1969 Divorce Reform Act.

After 4½ years, 55.5% of men in the sample had re-married,

compared with 48% of the women, 'despite the fact that the average age of the divorced men is higher than that of divorced women'. 'The proportion re-marrying falls with age at divorce'. 60% of those under 30 had re-married by 1977, with only a small difference between the men and the women. But re-marriage of women over 30 reduced more rapidly with age than those of men: for example among those aged 40 or over at the time of the divorce, about one-third of divorced women had re-married by the end of 1977, compared with about one-half of divorced men.

The effect on re-marriage rates of length of previous marriage differed between the sexes. For women, the length of the previous marriage is inversely related to chances of re-marriage. For men, however, length of previous marriage does not seem to affect medium term re-marriage prospects. It was also found that 'women whose youngest child was under ten years old re-marry more commonly than those whose children were older, or those who have no children'. In addition, there were considerable changes in the age difference between the partners in first and second marriages. Only 55% of second husbands were older than their brides. However, 75% of men married younger wives (the same proportion as with first marriages) and 56% of these wives were more than four years younger than their husbands (compared with 25% of first wives), while 23% of second wives were more than ten years younger (compared with 2% of first wives).(36)

Leete and Anthony's findings on differential re-marriage rates between age cohorts related to a period within 4½ years of divorce. However, other corroborating evidence suggests that, in the older age-groups, women are less likely to re-marry than men. 'The number of

divorced women in each age group is greater than the number of divorced men' (OPCS, 1978a, S4.31, p.62). In 1982, in GB, 6% of women between 25-29 were divorced, 6% between 30-44, and 5% between 45-59. The corresponding figures for men were 2%, 4% and 3% (OPCS, 1984a, Table 3.27, p.27).

Available statistics are less complete than is desirable in the context of loss of pension rights on divorce. Many young divorcées re-marry, with unknown effects on their potential rights to occupational pension benefits should they survive their second or subsequent husbands. Divorce rates have certainly increased in recent years and involve a significant number of couples whose marriages are of long duration. It seems clear that a woman who divorces when she is in middle life is, statistically speaking, less likely to re-marry than her younger counterpart and less likely to re-marry than her male counterpart. It is an interesting question as to what extent the general divorce trends outlined above actually apply to that sector of the population with entitlement to occupational pension benefits.(37) The study of the matrimonial jurisdiction of registrars (Baker et al, 1977) quoted now dated evidence which suggested that in almost two-thirds of all divorces, the husband was in a manual occupation and that marriages where the husband was employed in an unskilled manual occupation have twice the chance of ending in divorce as marriages where the husband is in a managerial or professional post (Gibson, 1974, quoted in Baker et al. 1977, S2.73, p.11). Haskey (1984) found a significantly lower level of divorce among male professionals, managers and clerks in 1979. However, with the growth of occupational scheme membership and greater provision of private sector widowers'

benefits, it would seem that in an increasing number of divorce cases, prospective pension benefits will be at stake.

III The current jurisdiction of courts with regard to loss of a wife's prospective benefits derived from her husband's membership of an occupational pension scheme

A divorce decree can be refused under Section 5 of the Matrimonial Causes Act 1973 if the petition is opposed on grounds of the 'grave financial hardship' which would result from the dissolution of the marriage rather than from its breakdown. The issue at stake is 'the contrast between the respondent's position as a separated wife and her position as a divorced woman' (Cretney, 1979, p.144). Cretney states that 'most of the cases in which the court has found "grave financial hardship" have been based on loss of rights under an employer's pension scheme'and 'it has been said that loss of an index-linked pension (i.e. one which gives a high degree of protection against inflation) is prima facie grave financial hardship to a wife.' (Ibid., p.145)

Under Section 25(1) of the Matrimonial Causes Act 1973, the courts have had a broad and flexible framework within which to exercise their powers to make financial provision and property adjustment on or after the grant of a decree. The over-riding aim of the court has been to exercise that power so as to place the parties, (so far as it is practicable and having regard to their conduct, just to do so), in the financial position in which they would have been had their marriage not broken down. Included in the circumstances of the case are the parties' financial resources and earning capacity, along with the financial obligations and responsibilities which each of the parties

to the marriage has, or is likely to have, in the forseeable future. Also taken into account are the standard of living previously enjoyed by the family, the ages and any disabilities of the parties, the contribution made by each party to the welfare of the family including unpaid domestic labour, plus the loss of prospective benefits, such as a pension, on divorce (see Hayes (1980), pp.3-12).

Where loss of prospective benefits derived from a husband's membership of an occupational scheme is concerned, a clear distinction has to be drawn between those benefits in which a wife might expect to have a share (though not as a right) and other benefits which might eventually accrue as rights. '--- a distinction must be drawn between the husband's personal pension rights and the provision made in his pension scheme for his widow. A wife cannot claim that by divorce she has lost her share in her husband's pension as she has no right to this: but she has lost her right to an widow's pension'. (Author's emphasis, ibid., p.10)

A wife has a right to be maintained by her husband. This right derives partly from common law which originally entitled a husband to most of his wife's property, in return for which he was obliged to provide her with 'bed and board' and necessaries suitable to his station in life. While a husband is no longer entitled to his wife's property and common law is now largely irrelevant, public law nonetheless requires, under the Supplementary Benefits Act 1976, that a man should maintain his wife and children (see Cretney, 1979, pp.271-273; Stone, 1977, Ch.4A(i)). While the converse applies in law, in practice married women appear to be under no legal pressure to take paid employment. When a couple are divorced, it is open to the court

to order an ex-husband to make financial provision for his former wife either by the settlement of property upon her and/or by periodic payments for her maintenance which can be payable until such time as she re-marries[38] or dies.[39]

When divorce proceedings are underway which involve a husband who has an expectation of benefits under one or more occupational pension schemes, the court has to consider, as far as it is able, the likely financial situation of the wife in old age, when she might, but for the divorce, have reasonably expected to enjoy benefits deriving from her husband's right to an occupational retirement pension and any lump sum accruing under a retirement scheme. Possible remedies here include ordering the husband 'in view of "the loss of the expectation that she will be maintained in her old age out of her husband's own earnings or pension"' to make '"whatever payment, transfer or settlement (that) is required" to compensate her' (ibid., p.305). The court can also 'indirectly protect the wife's position by giving her a share in the family matrimonial home and other family assets.' (Ibid.) However, as Cretney comments, such provision may alleviate the financial loss but in many cases the current remedies available do not constitute adequate compensation for the wife. 'A court cannot order the direct transfer of a pension from one spouse to another, because pension schemes normally contain a total prohibition against assignment: if the court wants to achieve this objective it must do so by indirect means by ordering periodical payments, a lump sum payment or a property transfer order.' (Hayes, 1980, p.10)

There is also the issue of loss of a prospective widow's pension on divorce. The OPB (1976) reported having 'received evidence from

a number of women who had lost or were about to lose all rights to an occupational pension scheme's widow's pension on divorce after marriages lasting up to 29 years and after bringing up a number of children' (OPB, 1976, S13.30, p.158). At that time, 'pension schemes were increasingly receiving enquiries from solicitors acting in divorce cases.' (Ibid.) Clearly, expert legal advice is required since it may, for instance, be more financially advantageous for a wife to oppose the petition and plead 'grave financial hardship' under the five-year separation clause, than to agree to a divorce after two years' separation. However, loss of prospective widow's pension rights do not appear to have been a major stumbling-block to the grant of divorce decrees in the 1970's.

The Law Commission in 1967 found the question of the alleviation of hardship or loss of pension rights an extremely thorny issue. For while the means whereby the court may compensate for the loss of prospective pension rights may be seen to exist, in practical terms there are often difficulties, not least because ex-husbands are liable to acquire fresh family obligations. As the Law Commissioners succinctly commented 'most men have neither the capital nor the income resources to provide adequately for the wife or (wives) they have deserted as well as for themselves and their new commitments. No amount of ingenuity by actuaries, lawyers or legislators can alter the facts....

a) Wealthy men present the law with no problems.

b) Poor men present problems which can be solved only within the framework of national insurance and supplementary benefit legislation.

c) The man who is neither rich nor poor generally has available an earned income, a pension expectancy and a capital asset - a house which may be encumbered with a mortgage. He rarely has much else.' (Law Commission, 1967, p.91)

It seems a fair assumption that the cases which present the courts with most problems are those under category (c). A younger, childless divorcing wife is likely to get little allowance made for loss of prospective benefits. However, as briefly indicated before, there are remedies commonly used in the case of women with the care of dependent children, or older women.

As stated, the court may make an order in respect of the matrimonial home and family assets: the husband may be required to transfer property within this category. In some cases, especially if there is no surviving widow, a husband may be able to leave instructions with the trustees of his occupational pension fund so that his former wife may benefit, perhaps in the category of a 'female dependant' or as the person to whom his 'lump sum' should be assigned, though it is not possible to irrevocably guarantee that the trustees will follow the deceased person's wishes. As an alternative, the court may order a husband to secure his former wife's financial future after divorce by other arrangements, such as the purchase of a deferred annuity, or by taking out an insurance policy (Cretney, 1979, pp.304-06; Samuels, 1975, pp.6-11).

Hayes argues that 'the powers of a court under sections 23 and 24 of the Matrimonial Causes Act 1973 are not wide enough to enable it to order a husband to take out a policy of insurance or to purchase an annuity for the benefit of his wife'. However, faced with the 'Draconian alternative' of having to stretch out proceedings from a two year separation to the 'five-year' rule at which point he could fall at the 'grave financial hardship' hurdle, husbands can apparently 'be compelled to do it voluntarily' with regard to meeting

financial responsibilities to an ex-wife by means of insurance policies and/or annuities (Hayes, 1980, p.10).

A survey of the matrimonial jurisdiction of registrars in England and Wales, conducted in the mid-seventies, noted that in the light of increased access to occupational pension scheme membership, loss of prospective benefits on divorce 'may potentially cause considerable hardship, particularly to middle-class, middle-aged wives'. Those registrars who commented thought that 'insufficient attention had been paid to the problem' of loss of pension rights and life insurance benefits 'and that there should be some clear cut direction as to how they should deal with it' (Baker et al, 1977, S2.25, p.27).

Powell has observed that 'Following divorce, many women are excluded -- from any benefits which may become payable under retirement and death benefit schemes run by their former husbands' employers' (Powell, 1984, p.187). He argues that although these benefits can be valuable 'they are rarely taken into account in formulating a claim against the husband.'(40) Sometimes the value of the benefits has not been appreciated by the lawyers involved: the necessary actuarial value may not have been put upon them (ibid.). Even where the court is sympathetic, the rules of an occupational pension scheme may preclude any possibility of payment to an ex-wife.

In the case of Julian v Julian 1972 (Cretney, 1979, p.150; OPB, 1976, S13.23, p.157), the court was satisfied as to hardship and refused a decree on the grounds that 'in all the circumstances' it would be wrong to dissolve the marriage. In this instance it paid particular attention, as the legislation directs, to 'the interest of any other persons concerned' such as a prospective spouse whom

the petitioner had in view, or a dependent relative of the respondent who could be, in turn, adversely affected by the respondent's loss of prospective pension benefits. Julian v Julian involved a retired police officer aged 61 who wished to re-marry and whose current wife, aged 58, in receipt of periodical payments from her husband and unable to work due to poor health, opposed the divorce on grounds of loss of a pension which could not in any case accrue to a second wife acquired after the officer's retirement. Despite the petitioner's offer to increase his wife's maintenance and to purchase a small annuity, the petition was dismissed. So, the usual principle of ending a 'dead' marriage was, unusually, overturned as a means of protecting an elderly wife against loss of benefit from her husband's pension scheme.

Le Marchant v Le Marchant 1977 (Cretney, 1979, p.146), a prima-facie case of 'grave financial hardship' concerned prospective loss of a substantial index-linked widow's pension. The husband finally got his decree at 'one minute to midnight' after a hefty last-minute compensation package which included outright transfer of the matrimonial home to the wife, a large cash payment on the petitioner's impending retirement (presumably from his 'lump sum') and a substantial life insurance policy taken out in contemplation of his predeceasing his former wife. In Mathias v Mathias 1972 (OPB, 1976, S.13.22, p.156), the young wife of a soldier, with one daughter, lost her appeal against the grant of a divorce decree to her husband, with consequent loss of prospective rights to an army widow's pension, the judge commenting that with a 'young able-bodied wife - it must usually be harder for her to ... make out the statutory defence'.

In Lee v Lee (1973) a wife aged 62, with an invalid son, successfully opposed her 67 year old husband's petition for divorce on grounds of five years' separation. She pleaded that prospective loss of a civil service widow's pension constituted 'grave financial hardship' (Rakusen and Hunt, 1982, pp.37-38). An interesting case is Purse v Purse (1981), in which a husband had obtained a divorce on the grounds that he was unable to trace his wife. On his death she discovered that she had been divorced without her knowledge, with consequent loss of an occupational widow's pension. The court held that inadequate enquiries had been made as to her whereabouts and that she would have had good grounds for resisting the petition on 'grave financial hardship'. Hence, the divorce decrees were posthumously rescinded, and the widow got her occupational widow's pension (ibid., p.39). Finally in Johnson v Johnson (1981) a 55 year old wife successfully pleaded 'grave financial hardship' since her husband (aged 61) had a good index-linked police pension but no capital and was unable to purchase life insurance due to poor health (Family Law (1983), Vol.12, No.2, p.116).

The OPB (1976) commented that 'the courts have taken the line that where a husband has insufficient funds to provide some form of compensation, petitions made solely on the basis of 5 years separation may be dismissed'. The courts had also taken into account 'the age of the parties, their conduct' and 'non-disclosure by one party of assets such as pension rights.' (Ibid., S.13.27, p.157) They also had taken into account the likely availability of supplementary benefits in lieu of a widow's pension, as in Reiterbund v Reiterbund, 1975 (Cretney, 1979, p.146; OPB, 1976, S13.28, pp.157-58).[41]

Cretney pointed out that in 1977 a very small number of divorce petition decrees (8.73%) were actually brought on the five-year separation clause, 55% of such petitions being presented by women (Cretney, 1979, pp.165-167). So much for Casanova's charter![42] Certainly, a very small number of cases based on loss of prospective widow's pension rights seem to have been reported.

IV Suggestions for changes in the jurisdiction of courts regarding loss of prospective pension rights on divorce

Following the SSPA 1975, the OPB were asked to advise the then government on 'what further steps were needed to achieve equal status in occupational pension schemes' (OPB, 1976, S1.2, p.2). Among the related issues reported upon by the Board in 1976 was the question of 'how occupational pension rights should be dealt with in financial settlements on divorce and separation'(ibid., S1.5, p.2). Previously this problem had been candidly admitted to be particularly baffling both by the Law Commission (1967, p.91) and the Finer Committee (1974, S5.304, p.350).

The Board recommended new powers for the courts and changes in the rules of occupational pension schemes. It noted that reform of divorce legislation meant that women could be divorced against their wishes, despite the absence of any conduct approximating to the former 'matrimonial offence'. Yet it was 'often totally impossible to compensate a wife adequately for loss of pension rights. The position was even worse at a time of high inflation, as the pension might well be based on the husband's final salary at retirement and might qualify for increases to offset rising prices' (OPB, 1976, S13.41, p.161).

The problem was 'particularly acute' in the case of the older wife who had stayed at home for a considerable period to care for her husband and children, at the expense of her own earning capacity and pension rights. Matters could not be left as they were. Many husbands had insufficient assets for the award of lump sums at the time of divorce or for maintenance to be continued after the husband's death (ibid., S13.42, p.161).

With regard to the rules of occupational pension schemes, only some permitted allocation of pensions (a device which could provide for an ex-wife). Where trustees had discretion as to the allocation of benefits on death 'evidence suggests that trustees might be more likely to exercise discretion in favour of the present partner of the scheme member, whether or not married to him' (ibid., S13.45, p.162). The Board noted that a personal pension paid to a scheme member after retirement is part of income out of which maintenance can be awarded and that as a wife has no actual right to any part of the pension itself, a divorced wife should have no such right either - otherwise she would have more rights than she would have possessed in marriage. (Ibid., S13.69, p.169)

Many of those who gave evidence to the Board favoured compensation for loss of pension rights and commented on the limited powers of the courts and the equivocal position of pension trustees in being asked to make judgements on matrimonial matters in cases where they actually had the discretion to do this. There were questions of priority for financial support as between a man's dependants at the time of his death and a former wife.

Two courses of action suggested themselves to the Board. One

was that benefits 'should accrue to successive wives in proportion to the length of each marriage'. This might seem a particularly fair suggestion in the case of women who had been married to husbands in occupations, such as the Diplomatic Service, which traditionally incorporate a wife's services (see Finch, 1983). However, the Board concluded that schemes should not be required to provide an inalienable right to a survivor's pension which had accrued during the period of a marriage' since this would require the payment of 'trivial benefits for young, childless wives with good chances of re-marriage and with adequate time, if they so wish, to build up their own pension entitlement'. (Ibid., S13.48, p.162)

A preferable solution lay in granting wide powers to enable the courts, on evidence of a former wife's hardship 'to order that a survivor's pension automatically provided under the rules of a scheme should be paid in whole or in part to a divorced spouse.' (Ibid., S13.56, p.165) Such orders should be subject to variations or discharge on application by either party to the divorce, and would 'override or modify the terms of the pension trust scheme deed.' (Ibid., S13.55, p.165) The Board felt that there would be scope for leaving a widow with her inalienable right to a GMP derived from her husband's occupational pension scheme, but using at least part of any amount in excess of this, in support of a needy former wife. It was argued that more occupational pension schemes should have rules permitting the sharing of survivor's pensions (ibid., S13.50-13.60, pp.163-166), and that, as a further contribution to the alleviation of hardship, courts should also be able to make orders concerning pensions payable in respect of dependent children, since these are payable to a maximum

amount or for a maximum number of children in some pension schemes (ibid., S13.69, p.169).

The first Consultative Document recommended that 'The courts should be given wide powers to enable them, where appropriate --- to order that a survivor's pension automatically provided under the rules of a scheme should be paid in whole or in part to a divorced spouse' (DHSS, 1976, 6(1), p.3). It was also recommended that allocation facilities within schemes should be brought within the power of the courts and that orders should be available concerning children's pensions (ibid., 6(ii), (iii) and (v). 'Schemes should be encouraged to adopt rules which would allow them to be more flexible in relation to allocating personal pensions or apportioning survivors' pensions between different beneficiaries' (S14 (i), p.9), but 'should not be required to provide an inalienable right to a survivor's pension which has accrued during the period of a marriage' (S26 (i), p.15).

The Labour government declareditself prepared to legislate in this area, intending, for administrative simplicity, to make the power of the courts exercisable only on the death of a scheme member, with the exception of an allocation option (DHSS, 1977, S22, p.9). Thus, a former spouse might apply for an allocation option to be exercised in his or her favour (S23, p.9) or, if a scheme member died, the courts could order that a survivor's benefit payable as of right to a spouse or child should be paid wholly or partly to a divorced or separated spouse (or child of that marriage) - for life or until re-marriage (ibid.). This would not affect a widow's GMP.

The second Consultative Document stated that the government had had a 'mixed reaction' to the OPB's 1976 proposals (DHSS, 1977, S12,

p.3). The pensions organisations opposed the proposals on the grounds of administrative complication and a belief that the courts should rely on matrimonial law for dealing with pension benefits (S13, p.3). In the event, no action was taken with regard to occupational pensions and divorce by the Labour administration of 1974-79.

V Financial self-sufficiency on divorce: towards divorce law reform 1984

The divorce law reforms of the late sixties and early seventies reflected a concern with the ending of dead marriages and with placing the parties, so far as possible, within the financial position in which they would have been, had the marriage not broken down. However, as the Law Commission commented, 'although divorce terminates the legal status of marriage it will not usually terminate the financial ties of marriage which may remain life long'. (Law Commission, 1980, S22, p.14) The arrangements represented an attempt to secure the financial position of the parties after divorce, not only by a once-for-all re-allocation of property on divorce (which can take effect at a later date), but in some cases by the award of potentially life-long maintenance to an ex-wife, secured where possible. It is this principle of a life-long financial tie, based on the concept of a wife as the financial dependant of her husband, which has now been successfully challenged, with radical implications for the jurisdiction of the courts with regard to loss of perspective pension rights on divorce.

The Law Commission's 1980 discussion paper called into question the basic principles on which financial provision is made for ex-wives on divorce and presented many different possibilities for change,

as well as detailed arguments in defence of the status quo. It recognised that the more radical suggestions, which would extinguish the obligation for post-divorce maintenance on any but a rehabilitative basis (and not necessarily then), would have substantial implications in terms of loss of prospective pension (S6(ii), pp.4-5).

In its response to the 1980 discussion paper, the Law Commission recommended that the duty of the court to place the parties to a divorce so far as possible 'in the financial position they would have been if the marriage had not broken down' should be abandoned as unattainable, inappropriate and undesirable in most cases (Law Commission, 1981, S17, p.7). It recommended that the welfare of any children should be paramount (ibid., S24, pp.9-10) and that 'greater weight should be given to a divorced wife's earning capacity, and to the desirability of both parties becoming self-sufficient' (ibid., VII(ii), p.10) and that where 'practicable and applicable' a 'clean break' should be imposed on divorce, i.e. 'a severance of financial obligations between the parties' (ibid., S30, p.11). The Law Commission stated that

> 'as a result of the evolution which we expect to see away from the concept of life-long support for divorced wives, the circumstances in which it would be thought desirable to exercise any such power to preserve the wife's contingent pension expectations might be less common than in the past.'
>
> (Ibid., S33, p.12)

It was however felt that in the case of long marriages and parties near pensionable age there might be justification for preservation of pension expectations and it was recommended that 'early consideration be given to the introduction of legislation empowering the courts to deal with the problem of occupational pensions.' (Ibid.)

In the autumn of 1983 a Matrimonial and Family Proceedings bill was introduced into the House of Lords. Its main aims were to allow divorce petitions after one year (not three) and to legislate on financial relief in matrimonial proceedings, removing the current requirement that the Court should place the parties in the financial position in which they would have been had the marriage not broken down. The welfare of any children was to be paramount and the Court was to place greater emphasis on the desirability of both parties becoming financially self-sufficient, as far as possible (Family Policy Studies Centre, 1983, p.4).

In December there was a discussion of 'the contingent nature of pension expectations' and loss of prospective rights to survivor's pension benefits on divorce. Speakers who argued that the likelihood of re-marriage lessened the importance of this topic were firmly reminded that women re-married less frequently than men (H of L, Vol.445, no.48, col.37, 12/12/1983). The Lord Chancellor promised a consultative document on allocation of pension rights on divorce for 1984,(43) the Department of Health and Social Security having solicited the views of the 'pensions interests' in 1983 on the matter of occupational pension rights on divorce and separation (DHSS, 1983b). The bill moved through the House of Commons and was passed in the summer of 1984. As from October 12th, 1984, the Matrimonial and Family Proceedings Act 1984 has required the courts to encourage self-sufficiency for both parties and to take into account any benefits, such as pensions, which parties to the divorce will lose the chance of acquiring.(44)

VI Some issues

Current occupational pension schemes can offer members and their dependants a substantial degree of financial protection in retirement, especially if the pension is index-linked. All schemes must provide coverage for widows and most women marry, typically outliving their husbands. A 'working-age' wife is similarly at risk to loss of income with repercussions through to her own old age, should her husband die in the service of his employer. However, such prospective financial security as a wife enjoys through her husband's membership of an occupational scheme (and such security can be considerable in a generous scheme), can be shattered by divorce. To what extent, given a new goal of self-sufficiency for both partners on divorce, are there grounds for compensating for loss of prospective pension rights on divorce? There are two areas for consideration. In the first place, should an ex-wife, self-sufficiency notwithstanding, be entitled to a share of her ex-husband's occupational retirement benefits during his lifetime? Secondly, should an ex-wife have access to survivor's benefits on the death of an ex-husband?

The nub of the argument for the abolition of the principle of maintenance appears to owe less to any ideological arguments for the financial independence of women, than to the practical realities of the situation - most men cannot afford to support two families (Law Commission, 1980, S25-26, pp.15-16). 'It is upon the solid rock of indigence that all concepts of a private maintenance obligation founder' (Gray, 1977, p.328). Some argue that a society which permits serial marriage as a common occurrence should bear any financial costs as a public obligation. Such evidence as is available (Maclean and Eekelaar, 1983; Murch, 1980) indicates that only a small minority

of ex-wives do in fact get personal maintenance.

A sizeable proportion of those who do not re-marry depend on Supplementary Benefit. Most, especially those with children, find it hard to earn more than this, their power to earn depending very much on their earning capacities during their former marriage.

Gray has argued that there is now a tendency for Western societies to 'resolve the economic relationship between husband and wife on divorce through property adjustment rather than the award of maintenance or alimony.' This does not preclude the possibility of 'rehabilitative maintenance' being granted to the economically weaker party for a fixed period, for instance while acquiring vocational skills. Such legal principles uphold the concept of the 'clean break' on divorce, and do not preclude the ordering of child support (Gray, 1977, p.156).

Occupational retirement pensions do, however, 'raise peculiar legal problems on divorce'. (Ibid., p.155) Viewing such pensions as deferred pay, Gray argues that superannuation rights are 'earned' through partnership in marriage so that 'it would be quite unfair that one of the principal economic products of the spouses' joint efforts during marriage should be ineligible for distribution between the spouses on divorce.' (Ibid., p.156) On this argument, pension rights, on divorce, should be included under the heading of property, not least because of the growing importance of capital elements in many occupational pension schemes.[45] '... consideration of retirement pensions in terms of property rather than maintenance would prevent the inequity which would otherwise occur in the loss of 'earned' entitlements upon the re-marriage of the spouse of the nominal owner

of the pension.' There could also be tax consequences of substantial significance (ibid.).

For divorcing couples where the husband has occupational pension rights, the extinguishing of maintenance would not preclude the possibility of a once-for-all settlement treating pension rights as property, along the lines suggested by Gray. A former wife could be endowed with rights to a share of her ex-husband's prospective retirement benefits, in recognition of her contribution to the marriage and in proportion to the number of years in which she was actually married. There is a precedent for this in the statutory social security provisions which secure a basic retirement pension for a divorced wife by allowing her to assume her husband's contribution record for the period of the marriage, where it is better than her own (see Smith, 1984, p.54). The OPB disagreed with the idea of apportionment by duration of marriage in 1976 on the grounds that it could benefit young childless wives, but this argument can be countered since even young wives can prejudice their own pension provision by having to change jobs or becoming unemployed due to a change of location and subsequent geographic immobility. Many wives have or have had the care of children and have prejudiced their position on the labour market in conseqence (LC, 1980, S45-57, pp.28-35).

The provisions of occupational pension schemes assume a wife's financial dependancy in marriage and in this they faithfully reflect current family and public law. Marriage is viewed as a partnership where the norm is that the husband provides the major part of the family income and the wife provides domestic services and a supplementary financial contribution to the home, if any (Cretney, 1979,

pp.300-303). The courts in divorce proceedings take full cognisance of the fact that in many families the wife's role has been to stay at home to look after the children and run the household. Courts now give recognition to the fact that'purely domestic contributions to the welfare of the family give a wife a claim to a share in the matrimonial property' (Hayes, 1980, p.9). Barnett has argued for importance to be given to 'the assessment of lost opportunity or diminished prospects incurred as a direct result of --- marriage' (Barnett, 1983, p.124).

Assumption by an ex-wife of a right to a proportion of her husband's prospective retirement pension could mean that family law would have to override trust law. Gray (1977, p.158) argues that in English law as it stands, there is 'some support for the inclusion of rights to a retirement pension within the assets which English courts can reallocate on divorce.' A practical problem is that 'many pension schemes explicitly prohibit or restrict the assignment or commutation of the entitlements which they provide.' (Ibid.) Gray believes that 'retirement pension rights will in fact increasingly come within the purview of the English courts in the distribution of matrimonial assets on divorce.' (Ibid., p.159) He points out that it would be possible to have a system which permitted equalisation of pension rights acquired during the marriage, where one spouse has greater entitlements or prospects than the other spouse ... which could include 'the direct payment of a proportion of a pension entitlement as and when received.'[46] A court order would presumably obviate the need for pension fund trustees to exercise their discretion, where allowable, in favour of an ex-wife. This scenario emphasises the

fact that such rights are 'earned' by a wife and do not rest on a plea of hardship, unlike the Occupational Pension Board's own recommendations (OPB, 1976, S13.56-57, p.165).

However, such sharing of occupational pension rights could lead to pleas of hardship from second wives, whose share in their husband's retirement pension would necessarily be the less if the court had ordered that part of it should be diverted to an ex-wife, or wives (LC, 1980, S26, p.16). This does not appear to be a grave objection, since at present a spouse is presumed, on marriage, to take the other 'subject to all existing encumbrances whether known or not - for example a charge on property ... or an obligation to support the wife or child of a prior dissolved marriage' (Cretney, 1979, p.298). A real objection might be raised by members of occupational pension schemes which severely restrict the survivors' benefits payable in respect of deceased women members, or unmarried members, if equal contributions were payable by all members and large pay-outs permitted to serially married men with multiple dependent progeny!

Discussion has so far centred on the rights of a formerly married woman to a share in her husband's retirement pension. However, on divorce, there is also the issue of loss of what can be a substantial widow's pension. Under present arrangements, a husband can, where resources allow, be required to take out life insurance to cover the cessation of maintenance payments at his death. If the principle of maintenance for ex-wives was abandoned, logic would presumably decree that an ex-wife would get no more and no less than the financial provision made as a once-for-all property settlement. This could include an appropriate share in any capital benefits accruing from her former husband's membership of an occupational scheme. However,

total abandonment of the principles of maintenance for wives with the care of children, or for older women, is not what the amenders of existing divorce law had in mind. (See Alcock, 1984)

Powell argues that there is considerable scope for the trustees of occupational pension schemes to make provision for ex-wives by allowing for commutation of a pension into a lump sum, extending discretionary power to the payment of widows' pensions or allocating a portion of a retirement or widow's pension to an ex-wife, according to the length of the marriage (Powell, 1984, p.188). An ex-wife in receipt of maintenance qualifies as a 'dependant' under pension scheme rules. However, given the limited number of ex-wives who actually receive maintenance this is not necessarily a promising route to realisation of contingent benefits after divorce any more than is making access to such benefits dependent on the ex-wife's not having re-married. Powell (ibid.) suggests that an ex-wife should secure her financial future by insurance, including a policy on the life of her ex-husband. However, it might be a minority of ex-wives who could afford such protection.

1983 DHSS consultative letter asked for opinions as to whether, at the time of divorce, an ex-spouse should be entitled to apply for share (over and above the GMP due to a widow) of an occupational pension scheme member's 'automatic' survivor's pension to be apportioned on the death of the scheme member, should this occur. Such a share was defined as ceasing on death or re-marriage with a question as to whether it should then revert to the legal 'relict'. A question was also put as to whether the survivor's pension should be divided according to length of marriage, which raises issues over periods of separation. In addition there was a query as to whether a survivor's

pension should be thus divided if the ex-spouse has substantial financial resources. Finally, the question of the advisability of providing for applications for review orders, to take account of changes in circumstances, was also raised (DHSS, 1983b).

This chapter has considered highly complicated issues regarding loss of prospective occupational pension rights and benefits on divorce, a situtation which will, increasingly, face divorcing husbands as well as wives. A major change occurred in the field of divorce law in the early 1970's when 'irretrievable breakdown of marriage' became the sole ground for divorce and all wives became, from then on, 'at risk', in theory, to divorce. The courts were subsequently required to leave the parties to a divorce as nearly as possible in the financial situation in which they would have been, had the marriage not ended in divorce. An ex-wife's lost expectations of sharing in her husband's occupational retirement benefits, including an eventual widow's pension, became highly relevant in this context.

Despite official recommendations, no action has been taken to extend the court's powers with regard to occupational pension benefits. Indeed, as has become clear in the discussion preceding the Matrimonial and Family Proceedings Act 1984, all too little is known about the financial consequences of divorce, including loss of potential survivors' benefits. Few divorce petitions appear to have been dismissed on 'grave financial hardship' grounds.

With the courts now required where possible to aim for financial self-sufficiency for both parties on divorce, the issue of loss of prospective pension benefits becomes more crucial. On the one hand it may be argued that the principle of self-sufficiency renders concern about such benefits less relevant. On the other hand, given the un-

equal access of women to occupational pension benefits of their own and the existence of survivor's benefits as a form of substitution for a lost 'family wage', a case can be made for ex-wives to have an entitlement to benefits which represent 'deferred pay' earned jointly via the domestic division of labour, during the existence of the marriage. It would add uncertainty to the situation if such benefits were not treated as property to be re-allocated at the time of the divorce. To leave such disposition to the death of the scheme member or to make it dependent on the financial circumstances of the ex-wife at that time, would surely add considerable complications to the exercise.

Maclean and Eekelaar (1983, p.34) are emphatic that, on the basis of their recent research into the financial outcomes of divorce, the best insurance against ensuing financial hardship is re-marriage. In this way, new potential occupational pension benefits may sometimes be secured. As Delphy (1976, p.81) put it, '... marriage creates the conditions for its own continuation and encourages entry into a second marriage if the first union comes to an end.' However, a future scenario of wider access to occupational pension benefits by both sexes, accompanied by increasing trends towards serial marriage and long-term cohabitation will perhaps lead to demands for 'disaggregation' in respect of occupational pension benefits.

Meanwhile, the average prospective widow of a fully index-linked occupationally pensionable husband is well advised, should she see him straying in the direction of the divorce court, to stop him dead in his tracks by some means short of actual murder. In terms of occupational pension benefits she will do better as a widow than as an ex-wife.

Part V: References

Chapter 8 Widows and Survivors' Pensions and Benefits

1. Mowat (1961, p.32) gives two sample COS 'case histories' which contrast the situation of a 'deserving' widow of 1883 with her undeserving counterpart of 1873. The former was placed in domestic service as a childrens' nurse, her own three boys being placed in alternative care (ibid., pp.33-34) while the latter 'had broken her collar bone in an accident and her son aged 10 was in danger of losing his situation for want of boots.' On enquiry it was found that she resorted to a public house every evening and broke her collar bone when inebriated (ibid., p.36).

2. Owen (1965, p.174) cites the National Benevolent Institution, the Royal General Annuity Society and the City of London General Pensions Society as being 'dedicated to providing pensions for decayed business and professional men and their survivors'. He notes the large-scale growth of orphanages in the 19th century, many in the second half of the century being 'more selective with 'father's work' (Bank Clerks Orphanage, Railway Servants' Orphanage) or 'social status' being among the special qualifications commonly required for admission'. Such facilities could sometimes free a widowed mother for paid work.

3. The history of such provision has not been documented, though the Business History Unit at the London School of Economics is working on the history of occupational pensions provision in the private sector: personal communication, Professor Leslie Hannah.

4. Widows', Orphans' and Old Age Contributory Pensions - Voluntary Contributors - Act 1937.

5. It is not known whether employers restricted membership of occupational pension schemes to those whose income was too high to entitle them to membership of the statutory pension scheme (Russell, 1983).

6. Few wives of men in occupations offering employers' pensions were likely to have themselves been in paid employment and thus able to generate an income for old age: they might however have inherited money or even have had money settled on them at the time of their marriage.

7. From personal observation, the writer suggests that pre-war middle class husbands tended to 'protect' their widows from having to deal with financial matters and from 'fortune-hunters'. It was by no means unusual for capital to be put 'in trust' and the widow's financial affairs to be left in the hands of a son, solicitor or bank manager. Alternatively, at a time when a far greater proportion of people were in privately rented housing, the 'lump sum' might be used to buy a house or flat.

8. The training benefit was to be available for 26 weeks 'subject to satisfactory attendance at a training centre' (Beveridge, 1942, S349, p.135). Presumably the vocational skills envisaged were low-level.

9. The 'ten-year' rule was reduced to three years in 1957 (George, 1968, pp.157-158).

10. The Civil Service and nationalised industries also paid children's pensions (ibid., Appendix 4, pp.280-285).

11. At a discussion held by the Faculty of Actuaries in 1954 a speaker referred to allocation as 'an option which few in fact ever did exercise' (Bacon et. al., 1954, p.208).

12. Operative from 6/4/1979.

13. Widow's allowance: £47.65 (as of 23/11/1983)

    Widow's full basic pension: £34.05

    Widow's abated pension: at 40 (30%) - £10.22
    at 49 (93%) - £31.67

    All widow's benefits carry child dependants' allowances of £7.60.

    Widowed mother's allowance: £34.05

    These benefits are payable (subject to tax) regardless of the employment status of the recipient, but are suspended on cohabitation and cease on re-marriage.

14. A widow is entitled to half of any state additional pension entitlement which her husband has earned between 6/4/1979 and the date of his death: current levels of additional benefit are, in consequence, small.

15. A woman may 'top this up' with any pension entitlement derived from her own contributions, provided that the total does not exceed a single person's retirement pension (Matthewman and Lambert, 1984, S12-16, p.262).

16. The government has announced (1984) that these rules are to be changed.

17. The widow's 'requisite benefit' must be paid at a rate which is not less than 1/160th of her husband's final pensionable salary multiplied by the allowable number of years of service.

18. £500 in 1981.

19. Some employers 'contract-in' all or some employees, but offer a 'third-tier' or 'ride-on-top' occupational pension scheme. This strategy is sometimes employed by firms with a high proportion of female staff and/or a high labour turn-over. The arrangement enables them to reward long service, typically by conferring a lump-sum benefit which may be used as a death-in-service benefit

(Ward, 1981, p.102). In 1979, 11.2% of employees were in 'third-tier' occupational pension schemes, 12.2% of men and 9% of women, almost exclusively within the private sector (GA, 1981, Table 2.2, p.5).

20. Under the terms of the Social Security Act 1975, S36(6), p.29.

21. Private sector employers think it uneconomic to allocate resources to the necessary 'surveillance': personal information, Mike Fowler, Company Pensions Information Centre.

22. The public sector schemes were large thus accounting for the much higher proportion of widows who were subject to forfeiture rules as against the proportion of pension schemes operating them.

23. During the period 1838-1854 a man in England and Wales had an expectation of life, at birth, of 39.9 years: in 1891-1900 it was 44.1 years (OPCS, 1978, Table 2.5, p.19).

24. The Government Actuary's 1979 Survey (1981, S3.5, p.14) gave the average amounts of new pensions as £15 for widows and dependants of private sector scheme members and £10 for their public sector counterparts. The state widow's pension in November 1981 was raised to £27.15 with a £7.70 child allowance. These figures conceal a wide variation in the value of occupational widows' benefits and take no account of lump sum payment.

25. The 'trend' in re-marriage of widows and widowers has been downwards over the twentieth century. Widows are far more likely to re-marry if widowed at a younger age: widowers show a great propensity to re-marry, throughout (Haskey, 1982).

26. This is an area of provision in which occupational pension schemes are currently changing their practices to a considerable extent, mainly as a response to the increased divorce rate, the increasing frequency of cohabitation and demands for widowers' pensions. (Personal communication, Ann McGoldrick, University of Manchester, Institute of Science and Technology). Ms McGoldrick is conducting 'a wide ranging study' commissioned by the EOC to examine 'variations in practice with regard to the access requirements imposed by schemes and the benefits which they provide to members' (EOC, 1984, S6.11, p.27). See Part VI below.

27. For instance, the Civil Service 'allocation' rules specify an 'adult dependant' as 'a person (other than his spouse) who is solely or mainly dependant upon the person making an allocation' (H M Treasury, 1982, S5.2, p.64). The USS scheme offers trustees' discretion, in the absence of a widow, to pay death benefits to a 'dependant relative': the precise degree of close consanguinity required is spelled out and a proviso made that the 'dependant' must be 'wholly or mainly dependant on the member for the provision of all or any of the ordinary necessities

of life' (USS, 1982, S18(1)d, p.23). This scheme also contains a provision for 'any other female Dependant' to be granted a pension, in the absence of a wife (ibid., S7.4, p.59).

28. Some schemes require that any lump sum payment be made to the widow: others specify that the couple must have been living together. Press publicity was recently given to an alteration in the scheme rules for Members of Parliament which will permit them under certain circumstances to request the scheme trustees to pay their lump sum death benefits to persons other than wives, the implication being that this was, among other things, a 'cohabitees' provision.

29. See Pearl (1978), Eekelaar and Katz (1980), and Freeman and Lyon (1983).

30. For a striking set of arguments for the use of trustee's discretion in enforcing traditional morality of widows see Toulson (1976). He advocates forfeiture of widow's pension for women 'cohabitating with another woman as her wife' (ibid., p.114). Yet he appears happy to award 'widows' benefits' derived from the occupational pension contributions of men who are currently living with women to whom they are not married. The operation of Toulson's notion of discretion appears to celebrate female dependency in marriage or marriage-like relationships and well illustrates the inconsistencies of occupational pension scheme rules with regard to cohabitation.

31. A widow is a prime beneficiary under the laws of intestacy (Cretney, 1979, pp.259-260). A cohabitee cannot benefit under intestacy provisions, but, like a widow, may claim for 'reasonable provision' under the Inheritance Act (Provision for Family and Depandants) Act 1975 (ibid., pp.261-268).

Chapter 9: Loss of Prospective Rights to Benefits under Occupational Pension Schemes on Divorce under English Law

32. The Divorce Reform Act 1969 was followed by the Matrimonial Proceedings Act 1970, both later largely repealed and re-enacted as part of the Matrimonial Causes Act 1973.

33. It should be noted that the converse can apply with regard to loss of prospective widower's pension benefits, a potentially serious loss for any so-called 'dependent' widower.

34. See Law Commission (1980), S15, p.10. The court must be satisfied that the marriage has irretrievably broken down by proof of one of five 'facts' connected with the respondent's (1) adultery; (2) unreasonable behaviour; (3) desertion for at least two years or (4) that the partners have lived apart for two years and agree to a divorce or (5) that the partners have been living apart for five years.

35. A detailed account of the grounds for divorce, from which this information is taken, is to be found in Cretney (1979), pp. 98-156. See also Yelton (1974), pp.67-70.

36. All statistics in this and the foregoing paragraph from Leete and Anthony (1979).

37. No findings have been identified on the relationship between divorce and occupation and employers' pension benefits.

38. Cretney (1979), pp.278-9, points out that cessation of payments on re-marriage means that a woman can severely prejudice her financial situation by re-marrying a man poorer than her first husband. However any arrangements for capital transfer at the time of a divorce cannot subsequently be cancelled. The court, in ordering financial provision on or after divorce can take into account re-marriage or a definite plan by one of the partners to re-marry, but is not allowed to speculate on 'prospect , chance or hope of re-marriage' in the abstract (ibid., p.306). See also Cretney (1979), pp.317-320.

39. See Cretney (1979), p.229. A secured order for periodical payments will continue after the death of the former husband and cease only on the death of his ex-wife (ibid., p.279). An ex-wife may also apply for financial provision out of her late husband's estate (whether or not he left a will), under the Inheritance (Provision for Family and Dependants) Act, 1975 (ibid., pp.261-268).

40. This opinion comes from the director of a pensions management firm speaking at a solicitors' conference. It reflects opinions given to the writer by a number of solicitors and divorced persons. See also Ellison (1980), p.3303.

41. Cretney (1979), p.146; OPB (1976), S13.28, pp.157-158. Supplementary Benefits issues are discussed in Lowe (1976).

42. Baroness Summerskill referred to the proposed legislation during the passage of the Divorce Reform bill in 1969 as a 'Casanova's charter', which would facilitate easy divorce for errant husbands of 'innocent' wives (Lee, 1974, p.172). Mr Justice Finer (1974) later suggested that Messalina's charter would have been an equally inept catchphrase (Cretney, 1979, p.165).

43. Not available at the time of writing.

44. For initial comments on the Act, see Alcock, 1984.

45. See OPB (1976), S13.11, p.153, on the value of widows' benefits over time, including Table 18, specimen values of accrued widows' benefits.

46. Gray cites provisions now operative in West Germany and the USA in support of this suggestion, which implies a community property regime in marriage, lacking in the English legal system.

Part VI

Gender Divisions in Occupational Pension Provision

'At the Woodhouse she remembered sitting under the piano while her mother played, thinking: "O, I'm glad I'm a girl, I'm glad I'm a girl. Somebody will always look after me." '

(Lady Diana Cooper, born 1892 - quoted Zeigler, 1983, p.22)

'The debate on how occupational pension provision can best be extended to suit the needsof women is a critical and complex one which is clearly far from resolution.'

(McGoldrick, 1984, p.128)

Part VI

Conclusion

Gender Divisions in Occupational Pension Provision

This study has explored the early history of employers' pension provision and traced the entry of women into scheme membership up to World War II. It has examined the post-war expansion of occupational pension provision and documented the continuing under-representation of women in scheme membership. Attention has been given to current issues of unequal access, treatment and status between men and women, both with regard to membership of schemes and entitlement to benefits. Finally, female access to survivors' benefits, typically widows' pensions and lump sum death benefits, has been discussed along with issues that surround loss of potential widows' benefits on divorce.

In discussing the findings of this research, several themes suggest themselves. The first relates to Titmuss' conceptualisation of both occupational and fiscal welfare benefits as 'concealed multipliers of occupational success' (Titmuss, 1963, p.51). A second theme incorporates two linked sub-themes, being concerned with the influence of both married status and motherhood in determining female access to occupational pension benefits. The third theme focusses on the role of the state with regard both to employers' pension provision and the position of women. A fourth and complementary theme addresses the differential treatment of men and women scheme members, emphasising issues of sex discrimination which invite legal intervention and remedy. Finally, female access to occupational pension benefits is reviewed as an issue of female financial dependence and independence

in the wider context of economic, social and legal changes during the period 1870-1983.

It was Titmuss who, in 1956, first drew attention to the existence of a 'social division of welfare' whereby state welfare provision was paralleled by other forms of welfare provision derived from paid employment and the tax system. Occupational pension schemes are an example of such provision and have, as Titmuss (1963, p.52) observed, favoured the better-off taxpayer and functioned as 'concealed multipliers of success' derived from 'employment status, achievement and record' (Titmuss, 1976c, p.192). The aim of this study has been to explore the extent to which such provision has distributed its unequal rewards in the direction of women. The issue of gender divisions in occupational and fiscal welfare was not addressed by Titmuss, though he was well aware that the majority of elderly people were women, something 'generally overlooked by those who consider that private occupational pension schemes for men will answer all the questions of income maintenance in old age.' (Titmuss, 1963b, p.98)

The original public sector superannuation scheme was an innovation designed both to combat corruption via the sale of office and to cut public expenditure. The early models of occupational pension provision, so widely copied, derived from a period when no women were employed in the Civil Service. When the women telegraphists were 'nationalised' in 1870 they were, with respect to entitlement to membership of the Civil Service Pension Scheme, treated as 'honorary men'. The public and private schemes which were developed in the nineteenth century were targeted towards higher status male employees, one primary purpose being to 'superannuate' infirm or ageing employees

in the employer's interest, that of 'efficiency'. There was much debate as to the effects on employee moral fibre of an employer (or the state) providing a replacement income for earnings foregone in old age, thus reducing the incentive for a man (sic) to exercise thrift during his working lifetime so as to provide for himself and his surviving dependants.

In the twentieth century, both employers and their better paid employees increasingly came to derive tax advantages from occupational pension provision. From the 1920s, the 'insurance industry' derived increasing profit from its involvement with employers' pension provision. Where available, separate schemes were, typically, devised for managerial, white collar and (less commonly) manual workers. Separate schemes were commonly devised, in the private sector, for that minority of female employees who were actually given access to employers' pension provision. For, with the entry of women into white collar employment in increasing numbers in the late nineteenth century, the rationale of pension provision was, with regard to female employees, turned upside down.

Employers' pension schemes were planned, in part, to construct the prototype male employee as a 'stayer' who, trained and experienced, would remain loyal to his same employer over a working lifetime. Women, by contrast, were valued as a cheap supply of labour suited to routine duties, whose very cost-effectiveness depended upon the existence of a regular outflow of young women into marriage and their replacement by younger workers. Women were sometimes placed in 'unestablished' job categories which, unlike permanent employment, did not include membership of an occupational pension scheme. A

constant turn-over of women staff was effected by widely incorporating a 'marriage bar' into female conditions of service, an arrangement which sometimes included payment of a formal 'marriage gratuity' derived from a woman's own contribution to her employer's occupational pension scheme.

Thus, up to World War II, it was a minority of single women who comprised the female 'stayers' and constituted a somewhat problematic category for pension providers. For one attraction of women employees in general was that they would not remain in service long enough to reach 'retirement age' and make claims on pension provision. Many employers did in fact retire 'elderly' female employees at an earlier age than men. It was permanent public sector employment which offered most security to single 'career women' via occupational pension provision. Such provision was less commonly on offer in the private sector and, where supplied, typically applied different terms to women from those applied to men.

With demographic change having reduced the supply of 'surplus' career women and younger unmarried women by the 1950s, employers found a new source of labour among the 'married women returners'. Just as their Victorian predecessors were valued for their cheapness, competence and docility, so the 'returners' were valued as cost-effective and efficient employees especially well-suited to routine and undemanding work. Much of this was 'service' work, incorporating skills which were quickly learnt and which to some extent replicated actual or assumed female domestic skills which had been 'naturally' acquired, cost-free to the employer. Such women were willing, for the most part, to work part-time, a status deemed by employers to obviate

the need for access to an occupational pension scheme.

Evidence presented on women's employment and education has shown how, during the post-war period up to the 1980s, women have, typically, received less education and training than men, and have entered very restricted areas of the labour market. Most have been low-paid, or lower paid than men in the same type of occupation, and greatly under-represented in jobs with good 'fringe benefits' such as employers' pensions. Women typically experience discontinuous employment careers, have jobs in sex-segregated categories and have their employment careers shortened by the application of rules which, typically, require women to retire at 60, five years earlier than the majority of men.

While no research findings exist which fully document the extent to which women have benefitted, or failed to benefit, from occupational pension provision, evidence presented in this study indicates that occupational pension scheme entitlements have served as 'concealed multipliers of occupational success' far less for women employees than for men. Even where women have completed a substantial career in better-paid employment, only exceptionally have such women achieved 'success' in terms of the financial rewards (including retirement benefits) which go with promotion and senior status. Not for nothing were the special 'Top Hat' managerial pension packages devised in mid-century nicknamed after an elite form of head gear worn only by men.

'Occupational success' as deriving from paid work is itself a gendered concept. For women, by contrast with men, career advancement or the achievement of higher status in paid employment, with its accompanying financial rewards (including pensions) have, on the

evidence of this research, been rather little valued in British society during the period in question. It is perhaps symptomatic that married women are officially given a social status derived from their husband's occupation, not their own, thus rendering the definition of social class, for women, a problematic concept. For women the 'marriage career', encompassing motherhood, in a context of greater or lesser female dependence, has traditionally been accorded a far higher status than the 'employment career'.

Given a straight 'choice' between marriage or a lifetime of paid employment, most pioneer white-collar or better paid women employees opted for marriage if the opportunity presented itself, not least since marriage was a necessary condition for socially-approved child-bearing. Given the low pay, occupational status and social position of the typical pre World War II 'spinster', such preferences are hardly surprising. Teaching and Civil Service employment in particular came to be valued by women (and their parents) as 'pensionable' employment, providing some insurance against 'failure' to marry. There did emerge some grudging admission in the private pensions sector that single women might in due course 'need' pensions, such need perhaps being more clearly perceived in the aftermath of high loss of life in the first World War.

The existence of 'marriage bars' in public sector and much private sector employment up to World War II served to polarise the women affected into actual or potential married 'housewives' on the one hand and single 'career women' on the other. Such regulation indubitably helped to construct and maintain the 'domestic division of labour' in marriage, especially among the salaried classes. Husbands were

'breadwinners' and wives concentrated upon the unpaid domestic work of the home. The system was further bolstered by those occupational pension schemes which offered 'death benefits' to widows or other female dependants. The fact that men in occupational pension schemes were in a better position than most to 'provide for' their wives in old age or widowhood served to justify the exclusion of married women from white-collar or better-paid jobs, especially at times of high unemployment between the two wars.

Such married women were perceived as not 'needing' to engage in paid work, let alone generate occupational pension provision for themselves or dependants, even at a time when the delegation of both housework and child care to domestic servants and the education of children in boarding schools was established middle-class practice. The non-working wife was one hallmark of male occupational success, her existence partly made feasible by employers' pension provision.

Although, after World War II, 'housewives', i.e. married women, increasingly remained in the labour force after marriage and until motherhood, 'returning' as their children grew older, evidence suggests that they continued to be perceived by pension providers as women who did not 'need' pensions in their own right. The rules of the NI system played a major part in constructing married women as the potential financial dependants of their husbands in old age. With demographic and social change all but obliterating single women as a visible category of employee, it appears that from the post-war period up to the late 1960s, women became well-nigh invisible with regard to issues of access to occupational pension scheme membership. There was far more concern, given high marriage rates, with providing

for women as potential widows, than as employees with a need to 'defer' some part of their earnings so as to provide financially for themselves or others in old age.

The domestic division of labour was further re-inforced by the continuing operation of Inland Revenue regulations which, until 1971, permitted widowers' pension benefits to be made available only when a female scheme member's husband could prove his impaired incapacity as a 'breadwinner' on grounds of ill-health. Women were defined as 'not interested' in pensions, a state of mind which, where true, was most likely shared with the majority of younger and/or low-paid employees of both sexes.

In the 1950s and 60s, occupational pension benefits were increasingly becoming conceptualised as 'deferred earnings' which salaried/white-collar males were increasingly coming to expect as a guaranteed 'fringe benefit' deriving from 'good employment'. Such 'deferred earnings' represented payment of a deferred 'family wage'. Female salaries or wages were by contrast conceptualised as earnings (or 'pin money') which contributed essentially to present or near-future financial needs - or luxuries. Women in occupational pension schemes were encouraged to 'cash in' their contributions on 'giving up work' for domestic reasons or, in some cases, received formal gratuities on leaving, thus further confirming themselves as women who were 'provided for' in marriage and old age.

The dependent status of married women, their characteristic 'giving up' of paid work on motherhood, though to a decreasing extent on the event of marriage itself, were all factors used to justify the differential access to occupational pension provision accorded

to women as compared with men. The acclaimed 'flexibility' of employers' pension provision has included a facility to exclude women (or married women), to restrict women to membership of sex-segregated schemes or to offer different terms of entitlement within unisex schemes. It was not until the 1970s that such differential treatment of men and women emerged as an issue of sex discrimination.

Differential treatment of men and women has been a consistent feature of both state and occupational pension provision in Britain. Following the introduction of means-tested old age pensions before World War I, occupational pension providers characteristically devised their own schemes with due regard to the existence of state provision, up to the point where, in 1959, the two systems became formally related. Under the SSPA 1975, the two systems were carefully 'locked-into' each other, like Siamese twins, so as to provide second-tier earnings related pension provision for elderly people and widows, over and above the basic state pension provision.

After World War II, the new NI system set out to provide a basic retirement pension for that majority of employees who had no access to occupational pension provision. The state pension scheme was devised, as noted, with the overt intention of re-inforcing the domestic division of labour. It followed that, with the advent of a political will to provide second-tier state pension provision in the late 50s, concern rested more on providing improved widows' pensions within this tier than on enabling women to generate pension entitlements in their own right. This was the case despite the efforts made in particular by a minority of women MPs who consistently drew attention to the position of women with regard to membership of employers'

schemes.

The post war record of governmental moves to expand employers' pension provision is replete with examples of political willingness to permit the exclusion of women from scheme membership so as to encourage employers to expand schemes to the advantage of men and their widows. The SSPA 1975 itself permitted the exclusion of groups of workers by 'employment', thus facilitating the exclusion of women in sex-segregated occupational groups containing no comparable men or none with claims on inclusion in an occupational pension scheme. The major differences between the two main political parties at the time of the 'pensions debate' rested firstly on the extent to which the Labour Party prioritised the role of state earnings-related provision in expanding second-tier pension provision, as against the Conservatives' preference for an increased role for occupational provision, and secondly on the nature and scope of the second-tier provision under consideration.

There seems no doubt that both parties viewed second-tier state provision as a means of securing an income in old age for that majority of female earners who would not qualify for admission to an employers' pension scheme. In point of fact, the very lowest paid women have always been excluded from membership of second-tier state provision, as witnessed by the existence of a 'lower earnings limit' in the 'Castle' scheme below which people are not eligible to contribute. Such rules also disadvantage disabled women whose labour force participation is limited, compounding their disadvantage on into old age. The SSPA 1975 has led to an increase in the number of 'integrated' schemes which permit employers to provide occupational pension benefits only in respect of that band of earning above the 'lower earnings

limit', a practice which McGoldrick (1984, pp.93-94) found to be applicable in one-third of schemes, and on the increase. This practice disadvantages the low paid, the majority of whom are women who, if they are older and have exercised the 'married women's option' are particularly disadvantaged by such integration, which presumes full entitlement to a state pension. In the same way, women's characteristically low earnings make it likely that, unless they are members of fully index-linked pension schemes, the advent of any but modest inflation will mean that, due to the arcane workings of the revaluation arrangements, their eventual occupational pension entitlement will consist of a GMP worth no more than its SERPS equivalent. However, the SERPS scheme, unlike occupational schemes, provides no lump sums and attracts no tax relief on contributions.

There has been a clear tendency for employers to 'harmonise' occupational pension provision with state provision. The setting of the 'normal retirement' age in schemes at the same point as 'pensionable age' in state provision, is an example. However, whereas the NI scheme was designed to encourage workers to stay on to 'retirement age' or beyond, high unemployment and cost-cutting exercises are increasingly meaning that employers are insisting that women retire at 60, with no possibility of extension. There is a trend towards employer use of occupational pension provision to facilitate 'shedding' of staff via early retirement, though the extent to which women, in particular, are affected is not known. Another example of 'harmonisation' is the restriction of the requirement for the provision of 'automatic' survivors' pensions under the SSPA 1975 to widows, not widowers. It is the private pensions sector which has so far moved to provide

automatic widowers pensions in some schemes.

The differential treatment of men and women in occupational pension schemes and the willingness of successive governments to sanction it is a striking feature of British employers' pension provision. The Labour government documents on 'equal status' of 1976 and 1977 were conservative in their approach, showing a clear preference for moving towards equal treatment by 'voluntary action' on the part of the pensions industry. The 1974-79 Labour government failed to include retirement and death benefits under either equal pay or sex discrimination legislation and displayed an equivocal approach towards 'equal treatment' by promising legislation which would, elliptically, take 'due account of any inherent differences with regard to pension needs'. It has taken the 1983 draft EEC directive on occupational social security to stir up the 'pension industry' in respect of proposals for 'unisex' actuarial calculations. Even this document proposed to exempt from its remit differential treatment of men and women with regard to survivors' benefits and pensionable ages where member states make such distinctions.

Early in 1985, an EOC research report on equal treatment in occupational pension schemes became available. While its findings appeared too late for incorporation in this study, they largely corroborate and nicely complement material presented here, with evidence drawn from an investigation of pension scheme rules and procedures plus interviews with pension managers and trade union officials. McGoldrick makes the point that the occupational pensions world is exceedingly male-dominated, with few women in pensions management or acting as trustees. The literature made available to scheme members

was likewise heavily male-biased and, in some cases, outright misleading to women members (McGoldrick, 1984, pp.128-30).

The period studied in this thesis 1870-1983 is that of the 'emancipation' of women. It can be argued that any current disquiet over the position of women with regard to occupational pension provision is symptomatic of disquiet over a number of remaining economic, social and legal disabilities to which women continue to be subject, not least the domestic division of labour. The issues relating to women and pensions reflect the existence of a long-running debate relating to the desirability of strategies which on the one hand promote or on the other hand inhibit female financial independence, especially within marriage.

The marked reluctance of successive British governments to include occupational pension provision within the ambit of sex discrimination can be interpreted as a marked reluctance, shared by pension providers, to disturb the existing gender order. Women continue to be constructed as individuals who, in the normal course of events, are 'provided for' by their husbands, to a greater or lesser extent. It is married men who, within the rules of contracted-out occupational pension schemes, are automatically entitled to confer a 'guaranteed minimum pension' on their widow in approved circumstances, without reference to the woman's past, present or potential capacity to generate an income for herself. By contrast, when a marriage ends in divorce, increasing attention is being given to a wife's capacity to be financially self-sufficient. There is a certain inconsistency in the principles on which such practices are based.

It has become clear that lower-paid, manual and 'secondary'

workers in their various manifestations have, to date, derived manifestly less benefit from occupational pension provision than their better-paid, non-manual, 'primary' counterparts. It has also become clear that women are over-represented in the former category, though some have potential entitlement to occupational survivors' benefits which men are denied.

In noting some broad social policy issues which arise from this study, with a bearing on female financial dependence/independence, one major question emerges as to the extent to which all paid jobs, however low-paid and/or part-time, should incorporate a mandatory or optional facility to generate deferred earnings for old age and death benefits for other individuals and/or dependants. A related question concerns the capacity and will of the occupational pension sector to provide such a facility, given that it has so far proved itself rather less than able and willing to meet the needs of part-timers, job-changers, the low-paid and those with interrupted 'employment careers' - among which categories women are in a clear majority.

It is motherhood which is now the life event which, above all (old age excepted) inhibits the earning power of the majority of women. The existence of occupational survivors' benefits (harmonised with state provision) is meant to compensate a privileged proportion of women for their degrees of dependence on a 'male breadwinner'. However, such potential benefits can be lost on divorce, an event to which all married women are potentially at risk. Further major policy considerations relate to the desirability of legally strengthening ex-wives' entitlement to a proportion of their ex-husbands deferred earnings on divorce, though such a move would draw attention to the

weak position still held by married women in relation to access to their husbands' earnings. Yet more policy considerations reside in the debate as to whether cohabitees should be treated as 'married' persons and the issues which arise from serial marriage.

It can be argued that the very existence of survivors' benefits (which mainly advantage married persons) inhibit those moves towards establishing a greater degree of financial independence for all women which, in the light of a high divorce rate and a 'surplus' of older non-married women, might be a sensible policy option. To what extent would it advantage both men and women, in the long-term, if occupational pension benefits were to be 'disaggregated' accruing only to the individual and giving that individual a choice over the disposition of death benefits, perhaps making mandatory only provision for dependent child survivors. Such a scenario would appear to require, for its proper functioning, equal access to paid work for men and women, equal shares in the unpaid work of the home (or availability of substitute provision) and the concurrent introduction of disaggregation policies into the tax and state benefits systems.

However, such a scenario, though it might lessen gender inequalities, would not, of itself, prevent occupational pension provision acting as a 'concealed multiplier of occupational success'. It would not eradicate inequalities within the paid workplace, such as low pay, differential access to fringe benefits, and the disadvantages which accrue to members of ethnic minority groups. Furthermore, the paid workplace, like marriage, is becoming an increasingly fragile vehicle on which to pin hopes of a 'comfortable' old age, financially cushioned by entitlement to deferred earnings, whether his or hers.

Meanwhile, at the present time, occupational pension provision continues to project the inequalities of the work place and the domestic arena into old age. The current social division of welfare and sexual division of labour, in both workplace and home, permit some favoured citizens to seek 'occupational' rewards which are in due course divided out both unequally and irrationally, not least due to the enormous differences in pension scheme rules. In this process, both men and women are disadvantaged, but women the more so, especially if non-married in old age. Divorced elderly women are particularly at risk to poverty.

For women, and especially mothers, despite the SSPA 1975, the chances of having an adequate income in old age still appear to reside to a considerable extent in marrying (or remarrying) and, even more importantly, staying married to a man with good index-linked occupational pension entitlements and a lengthy record of paid employment. Thus it can be argued that marriage and motherhood are 'gender variables' in relation to the 'multiplier' principle suggested by Titmuss (1965, p.51). A combination of self-generated and survivors' occupational benefits is a promising recipe for financial solvency in old age, especially for women.

From this exploratory study of women and occupational pensions it has to be concluded that financial independence and self-sufficiency for women (but not men) has, to date, been little valued in Britain. Furthermore, the 'price' of marriage and motherhood for women is, still, a greater or lesser degree of financial dependence in adult life - a dependence which, characteristically, increases in old age. Yet, in logic, the increased risks of divorce and unemployment which

have characterised the 1970s and 80s call into question lifestyles which incorporate heavy financial dependence upon another person, typically, a husband. Such risks also call into question some traditional values relating to women and money.

Being 'good with money' is generally defined as a feminine virtue in relation to small-scale housekeeping in the context of the domestic division of labour. However, female self-actualisation in terms of earning a 'living' wage or making individual provision for old age, let alone acquiring the type of professional financial skills which can lead to a career in pension fund management or appointment as a pension scheme trustee, is still seen as 'unfeminine' and disruptive to the existing gender order. Those who wish to study gender divisions in British society have a fertile and under-explored terrain available to them in relation to occupational pension scheme provision and associated issues of income maintenance.

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